

Idaho Senior Capacity Assessment Report:
Assessing the Capacity of Idaho's Legal Services Programs
2015

Prepared for the Idaho Commission on the Aging
& the Legal Advisory Committee

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Executive Summary

Background and Summary of Assessment Approach

This report provides the findings of a study to assess Idaho's existing capacity to serve the priority legal needs of Idaho's most vulnerable older adults. It also provides recommendations on how to improve legal resources for low-income older adults in Idaho. This assessment was funded by a grant received by the Idaho Commission on Aging from the U.S. Administration for Community Living. A mixed-method approach was employed in this assessment and included a quantitative survey of older adults regarding their legal needs (n = 548), an analysis of data maintained by agencies involved in aging and legal services, the results of a focus group created for this study, interviews with key informants from the aging and legal services communities, and an email survey of attorneys in private practice serving older adults (n = 24). Additionally, the results of the survey of older adults were compared to a similar survey conducted in 2008. The recommendations developed from this assessment are presented at the individual, the community (organizations and agencies), and policies and macro-levels.

Low-Income Senior Legal Services Landscape

Legal services for low-income older adults in Idaho are provided through a range of different agencies and programs.

- **Idaho Commission on Aging (ICOA) and Area Agencies on Aging (AAA).** The ICOA receives and distributes federal funds received under Title III of the Older Americans Act (OAA). These funds are distributed to six regional AAAs. Although the AAAs do not provide direct legal services, they have information and resources personnel who refer individuals to a range of legal services. Each AAA houses a Long-Term Care (LTC) Ombudsman program which is a point of contact and resource referral for LTC patients with a range of concerns, including legal issues. Adult Protection (AP) personnel within each AAA also frequently encounter older adults and their caregivers who need assistance with civil legal issues and serve as a referral and information resource.
- **Idaho Legal Aid Services.** The ICOA contracts with ILAS to provide the Senior Legal Hotline using federal funders provided under Title III of the OAA. Each AAA contracts with their regional Idaho Legal Aid Services (ILAS) office(s) to provide legal services to seniors age 60+ with federal OAA Title III funds. These funds play a major role in providing access to legal services for older adults in Idaho. ILAS also provides services to low-income older adults with other funding, including from the Legal Service Corporation (the federal agency that funds state legal aid programs for low income individuals), other federal agencies, and grants and contributions from a variety of other sources. In the last 10 years, ILAS provided services in more than 19,000 cases involving clients age 60+. ILAS also offers a Senior Legal Guidebook, interactive self-help forms, and a variety of educational legal content available through its website or at its offices.
- **Other Resources.** A range of other resources also contribute to legal services delivery for older adults, including the Idaho Volunteer Lawyers Program (IVLP), law school clinics and pro bono experiential learning requirements for law students, information and forms from the Idaho Supreme Court's Court Assistance Program, court-run guardianship monitoring programs, county-supported Boards of the Community Guardian (BOCGs), consumer protection and educational resources from the Idaho Attorney General's Office, and private-practice attorneys including low-cost initial consultations through the State Bar's Lawyer Referral Service.

Legal Issues for Older Adults: A Relatively Infrequent, But High-Stakes Concern

The assessment findings suggest that most civil legal problems for older adults occur relatively infrequently. But when problems do arise, the stakes are often very high and occur at critical times where individuals face other issues related to health care, finances, safety, and/or housing and living situations. These dynamics underscore the importance of *timely* access to legal services as a preventative

approach to minimizing complex legal needs, reducing acute and long-term care costs, and assuring safety and an enhanced quality of life.

Priority Legal Needs Identified

Resources for Alternatives to Guardianships and/or Establishing Guardianships. A guardianship is a legal tool to facilitate appropriate care for individuals with limited cognitive function. In the context of older adults, this often includes persons with dementia and Alzheimer's. Local personnel engaged in direct aging/legal services delivery consistently identified as a major gap the need for resources for *establishing* guardianships in cases where these personnel perceived one as appropriate. The process to obtain a guardianship involves a relatively high amount of attorney time and effort, and federal Title III-B funds cannot be used to fund ILAS in petitioning a guardianship (only representing the proposed protected individual in the proceedings). The availability and extent of services provided by county BOCGs varies depending on the county and even full-functioning BOCGs are typically unavailable where a family member wants to serve as a guardian but cannot afford an attorney. Local personnel also noted the need for ongoing monitoring of guardianships and spoke positively of efforts to improve such monitoring.

The restrictive nature of guardianships and their potential for abuse are concerns that have been raised in the aging services community nationwide. Some members of the Advisory Committee for this grant echoed these concerns over the potential abuse of guardianships, and emphasized the need for greater reliance on less-restrictive alternatives. Accordingly, there appears to some disconnect between policy-level efforts to reduce reliance on guardianships and the perceived need by personnel involved in direct service delivery for more resources to facilitate establishing guardianships. This disconnect suggests a greater need to develop, promote, and implement tools that translate in practice into viable alternatives that address potentially dangerous situations for vulnerable older adults without unnecessarily limiting their rights. It also suggests a potential for a greater role of limited guardianships where the protected individuals. Although this gap in resources to implement guardianship alternatives or establish appropriate guardianships impacts a small proportion of seniors, ILAS and AP personnel emphasized the potentially dire and costly consequences of being unable to properly address some cases in a timely manner. These personnel expressed particular concern about feeling hampered in their ability to facilitate coordination of appropriate services for individuals with dementia or Alzheimer's. It is anticipated that this gap will grow with the aging of the population and the desire of many older adults to age-in-place, in community settings. The patchwork variation in guardianship-related resources around the state further compounds this problem.

Providing and Promoting Accurate Informational Resources for Medicaid LTC and other Government Programs. Various interviewees mentioned concerns related to misinformation regarding the eligibility requirements for Medicaid LTC. The most frequently occurring ILAS case type for clients age 60+ was Medicaid/Medicare problems. Similarly, three of the four top legal concerns identified by Idaho seniors relate to planning for Medicaid funded LTC: government benefits, paying for LTC, and estate planning. Private practice attorneys also reported that additional information and/or training resources related to government benefits and long-term care would be the most beneficial. Accordingly, providing and promoting accurate informational resources for both consumers and service providers is a priority need.

Increasing and Maintaining Timely Access to Appropriate Level of Service. Because seniors typically need legal services at the same time they are experiencing health, financial, safety, or housing/living situation issues, there is a great need for services that are readily accessible throughout the state in a timely manner. In this regard, the Senior Legal Hotline plays a major role, accounting for the most ILAS cases for clients age 60+. Moreover, 74% of Idaho seniors reported accessing the Internet on a daily basis in 2014 (compared with 38% in 2008), indicating the potential role of online resources in providing legal information on demand.

Recommendations

The following recommendations focus on addressing behaviors at (1) the individual, caregiver, and family-level; (2) the organizational, agency, and community-level; and (3) the policy and macro-level.

Individual, caregiver, and family-level recommendations

- Further coordinate existing informational resources developed by and offered through several different agencies and development of a single, more comprehensive online clearinghouse for these resources.
- Develop additional educational materials related to planning for less-restrictive guardianship alternatives and Medicaid/government benefits.
- Work with health care providers to facilitate an additional point of contact through which to promote and distribute aging and Medicaid/government benefits planning educational materials.

Organizational, agency, and community-level recommendations

- Make the sustainability of the Senior Legal Hotline a priority, possibly through state-funded support and further coordination with the 2-1-1 Careline.
- Capitalize on national efforts to implement person-centered and family-centered strategies in promoting less restrictive alternatives to full guardianship, including durable powers of attorney, care coordination, and limited guardianship. Idaho should use resources created for state Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS), and a primary goal should be to achieve Recommendation 3.3 from the Third National Guardianship Summit in providing: “guardianship services for those unable to pay, services to coordinate alternatives to guardianship, and . . . to make such services available for all vulnerable persons.”
- Proactively pursue partnerships with hospitals, health care delivery systems, and other health care providers. Many major legal issues seniors face arise in conjunction with related health concerns. Currently, hospitals in Idaho and around the country are adapting to new “value based” payment methodologies that reward hospitals for maintaining population health and reducing readmissions. To the extent that providing timely legal services to low-income seniors reduces hospitalizations and expensive medical care, hospitals will increasingly have a financial interest at stake. With greater focus on community health and prevention, hospitals may similarly view assisting with low-income legal services related to health issues within the scope of the “community benefit” they provide. Such partnerships may include:
 - Working with health care providers to become a point of contact to provide accurate informational materials to patients to guide sound LTC planning;
 - Assistance or funding from hospitals to establish guardianships for hospital inpatients (i.e., to coordinate better discharge planning) and to avoid, through prevention efforts, unnecessary hospitalizations; and
 - Establishing medical-legal partnerships to allow physicians and other providers to refer low income patients with health problems that can be addressed through the legal system (i.e. substandard housing) to coordinated legal aid services.

Policy and macro-level recommendations

- Establish resources to fully implement Idaho’s protections for vulnerable adults, including the use of limited guardianships whereby the protected individual continues to retain some rights.
- Increase coordination between services for older adults and younger vulnerable adults at the state level to mirror such coordination at the federal level through the Administration for Community Living (ACL).

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List of Acronyms

AAA - Area Agency on Aging
ABA – American Bar Association
ACA – Affordable Care Act
ACL – Federal Administration for Community Living (within the Department of Health & Human Services)
ACP – Advanced Care Planning
ADRC – Aging and Disability Resource Centers
ALF – Assisted Living Facility
AoA – Federal Administration on Aging (within the Department of Health & Human Services)
AP - Adult Protection
BOCG - Board of the Community Guardian
BSU-CSA – Boise State University, Center for the Study of Aging
CAO – Court Assistance Program
CHNA – Community Health Needs Assessment
CU – Concordia University, School of Law
FY – Fiscal Year
GAL - Guardian ad litem
H&W – Idaho Department of Health & Welfare
HCBS - Home & Community Based Services
HHS – Federal Department of Health & Human Services
ICOA - Idaho Commission on Aging
ILAS - Idaho Legal Aid Services
IOLTA – Interest on Lawyers Trust Accounts
IQLC – Idaho Quality of Life Coalition
ISB – Idaho State Bar
ISC - Idaho Supreme Court
IVLP – Idaho Volunteer Lawyers Program
LRS – Lawyer Referral Service
LSC - Legal Services Corporation
LTC - Long-Term Care
NGN – National Guardianship Network
OAA - Older Americans Act
OAG – Office of the Attorney General
RCF – Residential Care Facility
RFP – Request for Proposals
SUA – State Unit on Aging
U of I – University of Idaho, College of Law
WINGS – Working Interdisciplinary Networks of Guardianship Stakeholders

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Introduction

Purpose

The purpose of this study was to assess Idaho's capacity to serve the priority legal needs of the state's most vulnerable, older adults (seniors) and to provide recommendations to improve the legal resources available to low-income Idaho seniors (age 60 and over). The report goal is to identify reasonable and achievable recommendations to address legal service gaps and challenges, including emerging issues from cases of elder abuse, neglect and financial exploitation.

Funding Source

This project was funded by a grant received by the Idaho Commission on Aging (ICOA) from the Administration for Community Living (ACL), Administration on Aging (AoA), in order to set forth recommendations and improvements for this target community. From the RFP for this Model Approaches to Statewide Legal Services Delivery System Grant, the background of legal assistance under the Older Americans Act (OAA) was described as follows: ACL legal assistance programs funded under the OAA have a long history of empowering older adults to remain independent, healthy, and financially secure within their homes and communities. Legal programs are a priority service under the OAA and are essential for older adults to address a wide range of challenges involving income security, housing, health care, consumer protection, guardianship, elder abuse/neglect, financial exploitation, isolation, and transportation needs. Legal assistance and elder rights programs also work in close conjunction with other core ACL programs and services (e.g. in-home services, family caregiver support, nutrition, transportation, etc.) designed to maximize the independence of older adults in home and community based settings.

Through this grant, the ICOA partnered with Boise State University's Center for the Study of Aging (BSU-CSA). The BSU-CSA research team worked to identify priority legal challenges from Idaho's senior community and to identify legal challenges from Idaho lawyers who serve senior clients as well as agency constituents such as Idaho Legal Aid Services (ILAS), and the Idaho Volunteer Lawyers Program (IVLP). The BSU-CSA research team also analyzed data sources as a metric of demand, utility and availability of legal resources.

General Methodology

A mixed-methods quantitative and qualitative approach was used in conducting the assessment of legal needs and capacity in delivering legal services to older adults in the state of Idaho. The first component of this study was to identify the perceived legal needs. The range and prevalence of legal needs and relative significance of various legal needs was assessed by (1) surveying older adults in Idaho and (2) collecting information from key informants from aging and legal sectors either through a directed focus group discussion or open-ended individual interviews of key agencies in delivering legal services to vulnerable, older adults.

The second component of this study was to identify the capacity of legal service delivery to older adults in the state of Idaho. Data collection activities were designed to gather information about existing leadership, funding levels, training opportunities, and collaborative activities. Activities were also designed to explore opportunities and threats to enhancing the delivery system. The entities involved in this component of the assessment included organizations that provide legal services to at-risk older adults. Information was gathered in three key ways: focus group and open-ended interviews of key informants to

provide general background, structured surveys to lawyers who were identified as working with older adults in the state of Idaho, and analysis of existing data sources.

Legal Capacity Assessment

To understand the current legal capacity in delivering legal services to the vulnerable, older adult population in Idaho, it was relevant and important to examine the current and existing legal services provided. It was also pertinent to receive the perspective of those constituent agencies and lawyers providing legal services. Therefore, the legal capacity assessment component was two-fold. First, data and information were gathered from the agencies who work closely with older adults in the state of Idaho. Data were gathered in the form of existing data reports, structured focus group or open-ended interviews of key agency informants. Each of these sources and the methodologies used to collect data are described in greater detail below. Second, data were gathered through structured online surveys sent to lawyers in private practice identified with potential older adult clients. The survey was conducted not only to gain perspective from lawyers about the legal needs of older adults in Idaho but also to identify the challenges in providing legal services to older adults. Again, greater detail of methodology for this survey is described below.

Methodology

Information was compiled through an iterative process of working with key informants to obtain data and information on the existing legal delivery system for low-income older adults. A focus group was conducted with approximately a dozen members of the ICOA's Advisory Committee for Phase II of its Model Approaches to Statewide Legal Delivery Systems Grant ("the Advisory Committee"). The members of this focus group consisted of attorneys in private practice involved with elder law, legal aid attorneys, administrators of aging services programs, and representatives from community organizations. Through this focus group, gaps in the legal delivery system and potential resources to address these gaps were explored.

Next, the ICOA sent a letter on behalf of the research team to various agencies and organizations in Idaho. This letter requested data and information regarding legal services to low-income older adults. The research team also conducted interviews with 15 individuals in different regions of the state, including AAA directors, AAA information and referral specialists, AP supervisors, county government, ILAS personnel, and individuals involved with local boards of the community guardian (BOCG). Personnel from all AAAs were invited to participate, and other interview subjects were selected through a purposive, snowball method¹ based on issues identified in interviews and/or review of other information. Relevant background information related to the data and information collected from key informants were identified and incorporated in the analysis.

¹ Purposive sampling is a method commonly used in qualitative research whereby interviewees are selected because they "have a unique perspective or occupy important roles" (p. 158). Snowball sampling refers to the process through which interviewees are asked to refer other individuals with pertinent information to be interviewed (p. 156). Remler, D.K. & Ryzin, G.G. (2014) *Research methods in practice*. Los Angeles: Sage.

Findings

Through working with key informants and analyzing existing data, the following components of Idaho's existing senior legal service delivery system have been identified. The intention of this analysis was to present the range of resources, programs, and agencies potentially available to meet the legal needs of seniors in the greatest economic need. In doing so, the aim of the analysis was to highlight the role each plays in providing legal-related services in matters involving low-income seniors.

Idaho Commission on Aging

The ICOA is Idaho's designated State Unit on Aging (SUA), tasked with administering federal funds pursuant to the federal OAA. Idaho Code § 57-5001 *et seq.* authorizes the creation of the Commission and sets forth its legal structure. As Idaho's SUA, the ICOA receives and administers federal funds through the federal ACL to provide services to seniors (age 60+) and vulnerable adults over the age of 18. ICOA is required to submit a four-year State Plan on Aging to ACL, identifying crucial needs regarding seniors and specifying how these needs will be addressed. The current State Plan runs from 2012-2016 and provides a comprehensive overview of ICOA's structure, funding, activities and priorities.²

Through Title III-B and Title III-E of the OAA, ICOA receives federal support to provide legal services to older adults. Title III-B funds may be used to provide various categories of legal services for older adults², and are the primary source for legal services funded through ICOA. Title III-E funds support the Family Caregiver Support Program and are used for legal services to assist caregivers in gaining access to services.³ ICOA also operates Aging and Disability Resource Centers, (ADRC) which are intended to serve as a "one-stop shop" for coordinating services.

Area Agencies on Aging

The ICOA contracts with six AAAs that provide services in different regions of the state. Each AAA provides a variety of services to assist older and vulnerable adults. Through qualitative interviews with AAA personnel, it was apparent that AAA information and referral, options counseling, and AP programs often serve as a resource to link older adults to legal services. AAA personnel rely heavily on being able to refer individuals to ILAS's Senior Legal Hotline. Each AAA also contracts with their regional ILAS office to provide legal services to low-income seniors. See Figure 1 for the areas with the associated counties:

² Idaho Commission on Aging (2012). Senior Services State Plan for Idaho, 2012-2016.

http://www.idahoaging.com/Documents/ICOA_State_Plan_2012-2016_final_20121016.pdf

² Administration on Aging (n.d). Legal Assistance - Title III-B Providers. http://www.aoa.gov/AoA_programs/Elder_Rights/Legal/title_providers.aspx

³ Administration on Aging (n.d.). National Family Caregiver Support Program.

http://www.aoa.gov/aoa_programs/hcltc/caregiver/index.aspx.

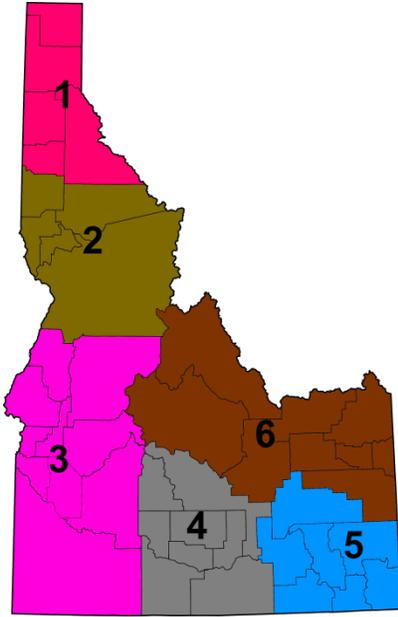


Figure 1. Idaho Area Agency on Aging Regions

1. Area Agency on Aging — Planning Service Area I (Coeur D'Alene)
Benewah, Bonner, Boundary, Kootenai, Shoshone
2. Area Agency on Aging — Planning Service Area II (Lewiston)
Clearwater, Idaho, Latah, Lewis, Nez Perce
3. Area Agency on Aging — Planning Service Area III (Boise)
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington
4. Area Agency on Aging — Planning Service Area IV (Twin Falls)
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls
5. Area Agency on Aging — Planning Service Area V (Pocatello)
Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, Power
6. Area Agency on Aging — Planning Service Area VI (Idaho Falls)
Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton

Adult Protection

AP is a state-funded program, targeted at protecting vulnerable adults from exploitation, abuse, neglect, and self-neglect. Under the Idaho Code § 67-5007, the ICOA is charged with providing AP

services and does so through AAAs. The state provides approximately \$1.3 Million in total annual funding for AP.³

During the initial focus group with members of the Advisory Committee, the need for more funding for AP from the Idaho Legislature was emphasized. In subsequent interviews with AP personnel, the issue of funding was not specifically addressed. However, several AP personnel noted the need for greater resources related to establishing guardianships and provided specific examples of instances where a guardianship was necessary to protect an older adult, but there were no resources to establish a guardianship.

Table 1 shows the number of AP investigations based on whether the alleged abuse involved an individual age 60 or over or whether the investigation involved younger vulnerable adults between FY 2011-2013. Although the total number of AP investigations remained relatively constant, the proportion focused on older adults declined from 78% in FY 2011 to 62% in FY 2013.

Table 1. All Adult Protection Investigations

	FY 2011		FY 2012		FY 2013	
	N	%	N	%	N	%
Total Investigations	1,852		1,772		1,944	
Age 60+	1,450	78.3	1,178	66.5	1,207	62.1
<Age 60	402	21.7	594	33.5	737	37.9

N = 5,618

Table 2 below identifies the number of investigations involving adults age 60+. In all years, the highest proportion of investigations involved allegations of self-neglect. This emphasis on investigating instances of self-neglect corresponded with comments made by AP personnel during interviews.

³ Idaho Commission on Aging (2012). Senior Services State Plan for Idaho, 2012-2016. http://www.idahoaging.com/Documents/ICOA_State_Plan_2012-2016_final_20121016.pdf

Table 2. Adult Protection Investigations Age 60+ by Category of Alleged Abuse

	FY 2011		FY 2012		FY 2013	
	N	%	N	%	N	%
Investigations Age 60+	1,450		1,178		1,207	
Abuse	295	20.3	233	18.9	284	23.5
Neglect	258	17.8	247	20.9	240	19.9
Self-Neglect	519	35.8	361	30.6	345	28.6
Exploitation	378	26.1	337	28.6	338	28.0

N = 3,835

Table 3 summarizes the guardianship and conservatorship actions taken in cases where AP investigations were substantiated as credible. These figures show the role that AP played in identifying cases where the protection of a guardianship or conservatorship was necessary. It also highlights a gap in guardianship services; that is, AP personnel identified cases where guardianships or conservatorships were may be appropriate, but none were pursued either because of inability to find a guardian and/or lack of resources to petition for the guardianship. One deputy county prosecutor interviewed emphasized that AP investigators play an important role in providing affidavits necessary to file for emergency guardianship by the BOCG.

Table 3. Guardianship and Conservatorship Action Resulting from AP Investigations (All Ages)

	FY 2011	FY 2012	FY 2013
	N	N	N
Temporary	37	29	25
Full	24	16	17
Needed but Unavailable	11	4	8

N = 171

AP personnel also noted that the focus of their work has evolved in recent years, from investigating cases to turn over to law enforcement to also serving a coordinating “harm reduction” function. AP personnel expressed that this was a positive change. One AP supervisor noted that law enforcement and prosecutors were reluctant to pursue some AP cases for criminal prosecution because victims were reluctant to testify against family members. Additionally, this interviewee noted, that cases often involved alleged abuse or negligence by an aged spouse who emotionally and/or physically could not provide the necessary care. Coordination by AP with a variety of other agencies is essential, especially considering the growth in the number of vulnerable adults in community settings.

Long-Term Care Ombudsman

AAAs also operate the Long-Term Care (LTC) Ombudsman program. This program is a resource for individuals receiving long-term care and investigates complaints regarding this care. The LTC Ombudsman refers complaints involving abuse or exploitation to AP for further investigation. The program categorizes complaints into 133 categories and distinguishes between complaints related to skilled nursing facilities and community-based LTC in places such as assisted living facilities (ALFs) and residential care facilities (RCFs). Of the 1,746 complaints received in FY 2013, many were unrelated to legal concerns (e.g., food service and living conditions). Table 4 highlights those LTC complaint

categories that relate to legal services and legal concerns identified by key informants through this capacity assessment.

An observation from the focus group conducted with members of the Advisory Committee was the need for legal assistance or education regarding LTC billing and admissions contracts. The participants indicated that many family members do not understand that LTC admissions forms may obligate them to pay the difference between what the facility charges for services and the amount Medicaid will pay (i.e., balancing billing). Another interviewee noted the issues that arise when Medicare funding and/or personal finances for nursing care are exhausted and the individual needs to qualify for Medicaid. The data below suggests the LTC Ombudsman may serve as a first contact for individuals with issues that may require legal assistance.

Table 4. LTC Ombudsman Complaints Related to Potential Legal Issues, FY 2013

	Nursing Facilities	Community-based LTC (RLFs, ALFs, etc.)
Financial exploitation (facility staff)	10	8
Financial exploitation or neglect (family or other not affiliated with facility)	14	14
Legal - guardianship, conservatorship, power of attorney, wills	26	31
Admission contract and/or procedure	2	6
Discharge/eviction	54	47
Billing/charges	18	27
Complaints regarding Medicaid (access of information, denial of eligibility, etc.)	19	24

Idaho Legal Aid Services

ILAS is a statewide nonprofit law firm that provides legal assistance to low-income individuals through funding from the federal Legal Services Corporation (LSC) and various other federal, state, and local sources. ILAS is Idaho's only LSC grantee and receives funds from Idaho's AAAs to serve seniors across Idaho. Accordingly, ILAS case data provides statewide information on legal services for low income individuals. For services provided by ILAS using LSC funds, clients typically must have income (or no income) to put them below 125% of the federal poverty level to qualify.

Background on ILAS

ILAS has a regional office in each of Idaho's seven judicial districts, as well as two satellite offices at Idaho's family justice centers that focus on specific populations (victims of domestic violence and sexual assault). Although ILAS's mission is to serve the entire state, because of geographic and resource limitations, its services are focused primarily in the cities where it has offices. ILAS has served Idaho for 40 years. Like LSC funded legal providers nationwide, it has been hit by numerous funding cuts. ILAS's Executive Director, Jim Cook, estimated that 25-30 years ago ILAS had approximately 80

full-time employees to serve a general population of 800,000 citizens in Idaho. Today, ILAS has about half as many employees (many of whom are not full-time) to serve a state population that is twice as large at 1.6 million.

As federal LSC funding has been cut, ILAS has diversified its funding stream. Mr. Cook estimated that approximately 60% of ILAS's funding came from LSC. In 2012, ILAS had approximately \$2.9 million in expenditures. Approximately \$1.6 million in funding came from LSC, with the rest coming from a variety of other sources.⁴ For example, ILAS received funding from the United States Department of Justice to represent victims of domestic violence and sexual assault and from the U.S. Department of Housing and Urban Development to assist with housing discrimination issues. As mentioned above, each AAA contracts with its regional ILAS office. In 2012, ILAS received a total of \$187,168 in funding from the six AAAs.⁵

ILAS's priorities include assisting with family and domestic violence, guardianships, housing issues, and public entitlements such as qualifying for Medicaid funded LTC or appealing social security denials. Many priority cases relate closely to the legal needs of seniors. Mr. Cook noted that housing issues included landlord-tenant cases (typically wrongful evictions), foreclosures, and housing discrimination. For example, if an older adult resided in a second-story apartment and slipped and fell with injuries, then the landlord might opt to evict her instead of finding her accommodations within a more accessible area of the building. ILAS can offer its services to request the landlord to provide reasonable accommodation (e.g., find an apartment on the first floor) rather than evict that tenant.

ILAS Coordination with Other Agencies in Providing Services to Older Adults

ILAS, the IVLP, and Disability Rights Idaho are all potential legal service providers for vulnerable seniors. The majority of senior legal services are provided by ILAS and IVLP with Disability Rights Idaho playing a larger role in guardianships for individuals with developmental disabilities. In senior guardianship cases ILAS and IVLP often coordinate so ILAS will typically represent the petitioner and IVLP will recruit a volunteer attorney to represent the proposed ward.

As noted above, each ILAS office contract with the AAA in its geographic region. Mr. Cook noted that each AAA has a different culture and some difference in funding priorities. AAAs are not restricted to serving only low-income older adults, and AAAs attempt to refer cases with the greatest need to ILAS. Mr. Cook noted that the aims of the federal OAA are a bit inconsistent in terms of setting priorities for the types of assistance ILAS should provide. Specifically, on the one hand, OAA funding is intended to provide legal services to seniors regardless of income (i.e., through income eligibility requirements used by LSC). On the other hand, one purpose of the Act is to serve low income seniors.

ILAS personnel noted that the organization will typically fund a case using the most restrictive funding for which the case qualifies (e.g., using AAA funding for seniors, using HUD funding for housing cases, etc.) with LSC funding serving as a backup if other funding is not available. ILAS and the AAAs meet to coordinate and plan the types of cases that will be accepted using AAA funding. However, in practice, the information and referral specialists, options counselors, and other personnel at AAAs who interact directly with individuals play an important role in determining who is referred to

⁴ Idaho Legal Aid 2012 Annual Report, p. 17. http://www.idaholegalaid.org/files/2012_Annual_Report.pdf.

⁵ Idaho Legal Aid 2012 Annual Report, p. 17. http://www.idaholegalaid.org/files/2012_Annual_Report.pdf.

ILAS. Several ILAS personnel noted the number of cases ILAS accepts and the levels of service provided reflect the level of funding and not the level of need. This perspective was reiterated by Mr. Cook who indicated that grants drive what ILAS can do. Accordingly, ILAS case data are more likely a reflection of the resources ILAS has available than the legal needs of the communities served.

Analysis of Idaho Legal Aid Case Data for Clients Age 60+

Case data were gathered from ILAS annual reports generated during a ten year data collection period (July 1, 2005 through June 30, 2014) involving seniors. . The reports include demographic information (race, age, county of residence, disability status, and percentage of federal poverty level) and case information (date opened, date closed, reason for close, legal problem code, case funding code, and assigned office).

As a snapshot of the senior clients (age 60+) and types of cases that ILAS has served in the last ten years, Table 6 notes that over 90% were white and 46% were between the ages of 60-70 with 13% of the total cases involving a disabled client. The majority of the clients (63.2%) resided in Area III which includes Idaho’s largest metropolitan area (Boise, Nampa, and Meridian). The top five most frequent case types were: Medicaid/Medicare (20.5%), Housing (17.9%), Debtor/Creditor (14.9%), Wills/Estates (14.7%), and Guardianship/Conservatorship (7.3%). For a full list of legal issues and how they were categorized please see Appendix A.

For the purposes of referencing the level of action/service, the codes used to indicate why each case was closed are provided in Table 5.⁶ “X” codes (e.g., reject, client withdrew before legal assistance, duplicate case) were eliminated from this analysis. The case closure code offers a glimpse of the amount of time and/or workload for each case.

Table 5. Level of Action/Service Code

Reason for Close Code	Level of Action/Service
A – Counsel and Advice	Counsel and Advice
B – Limited Action (Brief Service)	Limited Action
F – Negotiated Settlement without Litigation G – Negotiated Settlement with Litigation H – Administrative Agency Decision IA – Uncontested Court Decision IB – Contested Court Decision L – Extensive Service (not F,G,H,I)	Extensive Service

In interpreting the following data, it is important to keep in mind that ILAS personnel emphasized their activities are driven and limited by funding. Accordingly, this data provides insight into the services

⁶ The Reason for Close Codes outlined in left-hand column of Table 5 are the codes ILAS is required by LSC to use in maintaining data on services provided. Legal Services Corporation (2008), Case Services Report Handbook, pp. 20-23. <http://grants.lsc.gov/sites/default/files/Grants/2008%20Corrected%20CSR%20Handbook.pdf>.

ILAS has provided for seniors over the last ten years, and how these services vary based on factors including year, age range, geographic location, case type, and level of service. Variations in this data do not necessarily indicate changes in community need for particular services. Rather, these variations are likely caused by a variety of factors including funding source priorities and restrictions, the availability of other alternative community resources, local ILAS staff and referring agency priorities, as well as community need for a particular service provided by ILAS. Indeed, the results of the 2008 and 2014 senior surveys discussed later in this report indicate that senior legal needs have not varied substantially over time or based on geographic region. Accordingly, for years and geographic regions in which less of a particular service was provided by ILAS, this is likely more indicative of a potential gap in services than it is of a decline in need for that service. In short, the ILAS data presented here should be interpreted simply as a representation of what ILAS actually does to meet certain legal needs for older adults, not a measure of the magnitude of these needs.

As noted in Table 6, the majority of cases had the lowest level of action (66.6%). Most of these were coded to the Senior Hotline (54.5%) followed by AAA (35.2%) with over 45% of all cases identified as “over income” (i.e., the client’s exceeded 125% of the federal poverty guidelines). Table 6 further illustrates the demographic and case information of ILAS clients over the last ten years in the aggregate. A table outlining a year-by-year breakdown of similar data can be found in Appendix B.

Table 6. Demographic Characteristics of Idaho Legal Aid Clients

Demographic Characteristics of Idaho Legal Aid Clients	N	%	Avg.	Median
Age			73.0	72.0
60-70	8,957	46.2		
71-80	5,774	29.8		
81-90	3,909	20.1		
91+	762	3.9		
Race				
White	17,599	90.7		
Non-White	1,803	9.3		
Disability Status				
Disabled	2,505	12.9		
Not Disabled	16,897	87.1		
Days Case Opened			72.9	14.0
AAA Districts Served				
Area I	3,232	16.7		
Area II	910	4.7		
Area III	12,266	63.2		
Area IV	749	3.9		
Area V	1,260	6.5		
Area VI	985	5.1		
Legal Issues				
Medicaid/Medicare	3,980	20.5		
Housing	3,466	17.9		

Demographic Characteristics of Idaho Legal Aid Clients	N	%	Avg.	Median
Debtor/Creditor	2,890	14.9		
Wills/Estates	2,861	14.7		
Guardianship/Conservatorship	1,424	7.3		
Advanced Directives/POAs	664	3.4		
Public Entitlement (e.g., Social Security)	610	3.1		
Abuse/Violence	552	2.8		
Family Law	521	2.7		
Other	2,434	12.5		
Level of Action taken				
Counsel and Advice	11,524	66.6		
Limited Action	4,130	23.9		
Extended Service	1,650	9.5		
Funding Source				
AAA	6,825	35.2		
LSC	753	3.9		
Senior Hotline	10,569	54.5		
Other	1,255	6.5		
Client Over Income				
Yes	8,800	45.4		
0-124% of Poverty Level	1,459	16.6		
125-199% of Poverty Level	3,690	41.9		
200% + of Poverty Level	3,651	41.5		
No	10,602	54.6		

Data by geographical location

Table 7 outlines ILAS client data according to geographic region. Geographic areas were consistent with AAA regions. The racial breakdown is similar across the state with the greatest diversity in Area II (17.7% nonwhite), Area V (13.7% nonwhite) and Area IV (10.4% nonwhite) with the rest of the regions identified with less than 10% nonwhite clients. The data also showed that approximately half of the ILAS clients in Area III, IV, and VI were 60-70 years old. Clients from Area V, generally, tended to be older (approximately 28% of these clients were 81-90 years old compared to 15% in Area VI).

Table 7. Client Age and Race by Geographical Area

Client Age by Area	60-70		71-80		81-90		91+	
	N	%	N	%	n	%	n	%
Area I	1,268	39.2	955	29.5	777	24.0	232	7.2
Area II	362	39.8	283	31.1	231	25.4	34	3.7
Area III	6,008	49.0	3,592	29.3	2,281	18.6	385	3.1
Area IV	355	47.4	240	32.0	123	16.4	31	4.1
Area V	448	35.6	412	32.7	346	27.5	54	4.3
Area VI	516	52.4	292	29.6	151	15.3	26	2.6

N=19,402

Client Race Area	White		Non-White	
	N	%	n	%
Area I	3,061	94.7	170	5.3
Area II	749	82.3	161	17.7
Area III	11,103	90.6	1,158	9.4
Area IV	671	89.6	78	10.4
Area V	1,087	86.3	172	13.7
Area VI	928	94.2	57	5.8

N=19,395

As shown in Table 8, the geographic distribution of ILAS senior clients over the ten year period remained fairly steady with a recent shift in the last five years (since FY 2009). For example, close to 20% of the cases in Area III occurred in FY 2005 compared to only 2.1% of the cases represented in FY 2013.

Table 8. Case Representation by Geographical Area across Fiscal Years

	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14
	%	%	%	%	%	%	%	%	%	%
Area I	7.4	9.7	9.9	9.2	9.1	7.1	8.0	14.1	16.3	9.1
Area II	8.9	10.1	18.2	11.0	10.8	7.0	10.2	5.6	10.3	7.8
Area III	18.3	10.5	11.3	14.8	14.2	13.2	6.0	3.5	2.1	6.0
Area IV	12.1	10.1	12.4	13.1	10.4	10.4	7.2	7.6	9.6	6.9
Area V	12.1	14.8	13.9	13.9	9.6	7.5	8.4	7.9	7.4	4.4
Area VI	7.5	9.5	6.8	6.9	9.0	7.1	5.7	4.9	5.4	37.1

N=19,402

In a state as geographically diverse as Idaho, there is broad variation in the role ILAS plays in addressing legal needs in different areas. Table 9 identifies types of ILAS cases for seniors within each geographical area. The most prevalent case type in most regions was Medicaid/Medicare (Area I, 41.1%; Area II, 23.3%, Area IV, 25.4%; Area V, 22.0%). However, 19% of the cases in Area III were housing

and 24.5% of cases in Area V were Guardianship/Conservatorship cases. Again, this data does not necessarily indicate that these legal issues occurred with greater or lesser frequency in different areas of the state; it shows the role that ILAS played in addressing these legal needs varied regionally.

Table 9. Case Representation by Geographical Area across Type of Legal Issue

	Housing	Medicaid/ Medicare	Debtor/ Creditor	Wills/ Estates	Guardian/ Conservator	Adv. Directives/ POAs	Abuse/ Violence	Public Entitlement	Family Law	Other
	%	%	%	%	%	%	%	%	%	%
Area I	15.4	41.1	7.1	9.1	11.1	4.1	3.6	3.0	1.7	3.8
Area II	21.0	23.3	7.4	22.3	3.4	4.7	1.5	3.8	2.1	10.4
Area III	19.4	15.0	18.6	15.0	4.7	2.4	2.8	2.8	3.0	16.3
Area IV	17.8	25.4	9.5	17.4	7.6	1.2	5.2	6.5	2.3	7.2
Area V	7.3	22.0	9.6	19.8	24.5	7.6	0.6	1.7	1.9	4.8
Area VI	17.5	14.0	11.9	14.6	9.1	8.5	3.8	6.8	4.1	9.7

N=19,402

There were subtle differences in ILAS cases around the state. For example, in most areas ILAS was significantly involved in providing services concerning wills/estates (ranging from 14.6% to 22.3%) with the exception of Area I. Less than 10% of ILAS cases in Area I were related to wills and estates. Similarly, although housing cases accounted for 15.4% to 21.0% of ILAS cases for seniors in other regions, housing cases accounted for only 7.3% of cases in Area V. In Area III, there was the highest percentage of cases involving debtor/creditor legal issues with 18.6% of their cases.

Notably, cases in Area V were highly represented by Guardianship (24.5%), surpassing any other region's representation (ranging from 3.4% of cases in Area II to 11.1% of cases in Area I). Similarly, legal issues related to housing in Area V was much lower (7.3% of cases in Area V) than other areas (ranging from 15.4% of cases in Area I to 21.0% of cases in Area II). This geographic variation in case type indicates that ILAS offices concentrating on providing services for particular case types (e.g., guardianship cases in Areas I and V, housing cases in Area II, debtor/creditor cases in Area III) may involve trade-offs, requiring them to provide less services for some case types when compared to other ILAS offices.

Data for “over income” cases

Table 6 above reveals that 45% of the senior cases in the ten year data collection period were for “over income” clients. Those seniors were served using the AAA and Senior Hotline funding sources. The data in Table 10 summarizes the number of “over income” clients across the fiscal years. Primarily as a result of loss of funding for the Senior Legal Hotline for “over income” individuals at the end of FY 2010,⁷ total “over income” cases decreased considerably from FY 2010 (51% over income) to FY 2011

⁷ Idaho Legal Aid Services (May 10, 2010), News Release: Idaho Legal Aid Services' Senior Legal Hotline: New Hours of Operation and Eligibility Requirements to Take Effect June 1, 2010
<http://www.idaholegalaid.org/node/1746/idaholegal-aid-services-senior-legal-hotline-new-hours-operation-and-eligibility#sthash.QNgARYEa.dpuf>.

(19% over income). The increase in “over income” cases to 45.9% in FY 2014 reflects the restoration of Senior Legal Hotline funding for seniors of all income levels. Prior to FY 2011, however, the range of over income cases remained fairly steady with, a range of 43% in FY 2006 and to a high of approximately 56% in FY 2005.

Table 10. Over Income Clients by Fiscal Year

	Over Income		Not Over Income	
	N	%	N	%
Fiscal Year 2005	1,605	55.7	1,279	44.3
Fiscal Year 2006	879	43.0	1,164	57.0
Fiscal Year 2007	998	45.1	1,215	54.9
Fiscal Year 2008	1,284	50.2	1,273	49.8
Fiscal Year 2009	1,320	54.4	1,107	45.6
Fiscal Year 2010	1,101	51.1	1,055	48.9
Fiscal Year 2011	245	18.8	1,061	81.2
Fiscal Year 2012	291	25.4	854	74.6
Fiscal Year 2013	356	32.4	744	67.6
Fiscal Year 2014	721	45.9	850	54.1

N=19,402

The types of cases outlined as “over income” varied by geographic area throughout the state (see Table 11). In Area III, over half (51.7%) of the cases were identified as “over income” compared to approximately 25% of the cases in Area IV.

Table 11. Over Income Clients by Geographical Area

	Over Income		Not Over Income	
	N	%	N	%
Area I	1,030	31.9	2,202	68.1
Area II	405	44.5	505	55.5
Area III	6,345	51.7	5,921	48.3
Area IV	188	25.1	561	74.9
Area V	488	38.7	772	61.3
Area VI	344	34.9	641	65.1

N=19,402

The types of legal issues involved in “over income” or “not over income” cases are outlined in Table 12. The case types exhibiting the greatest percentage differences between these two groups were Public Entitlement (52.4% difference), Abuse/Violence (37.4% difference), and housing (20.8% difference). Approximately 55% of the wills/estate cases and 51% of the Medicaid/Medicare cases were over income compared to only 24% of public entitlement cases or 31% of abuse/violence cases.

Table 12. Over Income Clients by Legal Issue

	Over Income		Not Over Income		% Difference
	n	%	N	%	+/- %
Housing	1,374	39.6	2,092	60.4	-20.8
Medicaid/Medicare	2,011	50.5	1,969	49.5	1.0
Debtor/Creditor	1,279	44.3	1,611	55.7	-11.4
Wills/Estates	1,565	54.7	1,296	45.3	9.4
Adult Guardianship/Conservatorship	587	41.2	837	58.8	-17.6
Advanced Directives/POAs	304	45.8	360	54.2	-8.4
Abuse/Violence	173	31.3	379	68.7	-37.4
Public Entitlement	145	23.8	465	76.2	-52.4
Family Law	245	47.0	276	53.0	-6.0
Other	1,117	45.9	1,317	54.1	-8.2

N=19,402

Data by level of action/service

To identify the approximate time and/or workload spent on each type of case, it is relevant to discuss the level of action/service each case might take on. To generate this level of action/service factor, the reason for closed code provided in the original data was used (see Table 5 above for further explanation).

The level of action/service was lower for “over income” cases compared to those cases identified as “not over income” (see Table 13). Of the cases identified as “counsel and advice” (presumably requiring less extensive action/service), half of the cases are “over income” and half of the cases are not. Less than 41% of the cases identified as “limited action” are over income. Finally, the most extensive service cases yielded the least representation of “over income” cases – less than 30% of the extensive service cases were identified as over income.

Table 13. Over Income Clients by Level of Action/Service

	Over Income		Not Over Income	
	N	%	N	%
Counsel and Advice	5,734	49.8	5,790	50.0
Limited Action	1,689	40.9	2,441	59.1
Extensive Service	456	27.6	1,194	72.4

N=17,304

Building on this concept of level of action/service, the next set of analyses addresses the proportion and number of cases across this level of action/service. Table 14 summarizes the level of action/service of cases by geographical area. Approximately 35% of the cases in Area IV involved extensive service and approximately 40% involved limited action. Alternatively, less than 4% of the cases in Area III were identified as extensive service compared to 80% of the cases identified as counsel and advice (lowest level of action/service). Similarly, 63% of the cases in Area I were counsel and advice

compared to approximately 16% of the cases are extensive service. This variation in level of service/action by region is likely driven by a variety of factors, including variation in the level of service required to address different legal issues.

Table 14. Level of Action/Service by Geographical Area

	Counsel & Advice		Limited Action		Extensive Service	
	N	%	N	%	N	%
Area I	1,724	63.0	569	20.8	442	16.2
Area II	169	20.6	536	65.4	115	14.0
Area III	8,813	80.0	1,779	16.2	422	3.8
Area IV	173	25.6	268	39.7	234	34.7
Area V	162	14.2	662	57.9	320	28.0
Area VI	483	52.7	316	34.5	117	12.8

N=17,304

Over the last ten years, the level of service has remained rather steady until recently (see Table 15). The percentage of extensive service cases each year from FY 2005 to FY 2013 ranges from less than 7% (FY 2005) to over 14% (FY 2013). In FY 2014, the percentage of extensive service was less than 4% (significantly reduced from 12% in the prior year). The precipitous decline in counsel and advice cases between FY 2010 and FY 2011 is due primarily to the elimination of Senior Hotline funding that facilitated services to any senior, regardless of income. In FY 2014, this funding was restored, which is reflected by the increase in the number advice and counsel cases in that year.

Table 15. Level of Action/Service by Type of Fiscal Year

	Counsel & Advice		Limited Action		Extensive Service	
	N	%	N	%	N	%
FY 2005	2,084	80.2	342	13.2	173	6.7
FY 2006	1,180	68.3	341	19.7	207	12.0
FY 2007	1,267	64.8	499	25.5	188	9.6
FY 2008	1,526	64.7	628	26.6	203	8.6
FY 2009	1,481	66.3	526	23.6	226	10.1
FY 2010	1,234	63.2	547	28.0	173	8.9
FY 2011	640	52.8	407	33.6	164	13.5
FY 2012	636	60.6	261	24.9	152	14.5
FY 2013	554	75.5	326	32.7	117	11.7
FY 2014	922	66.6	253	20.7	47	3.8

N=17,304

Table 16 presents cases based on level of service/action and the type of legal issue. Arguably, some types of legal issues might result in extensive services more often than other types of legal issues. Throughout the ten year period for the data analyzed, the majority of ILAS services were at the counsel and advice level. However, there were some distinct differences in the representation of extensive service. Most significantly, over 40% of the adult guardianship/conservatorship cases were represented

as extensive service cases. The representation of extensive service in these cases was almost three times higher than their representation in any other type of case. There are three other types of cases where extensive service was more highly represented- family law (17.8% extensive service), public entitlement (17.2% extensive service), and abuse/violence (16.4% extensive service). The remaining legal issues (housing, Medicaid/Medicare, debtor/creditor, wills/estates, advanced directives/POAs, and other legal issues) had less than 10% in the extensive service category.

Table 16. Level of Action/Service by Type of Legal Issue

	Counsel & Advice		Limited Action		Extensive Service	
	N	%	N	%	N	%
Housing	2,425	76.3	559	17.6	194	6.1
Medicaid/Medicare	2,065	56.3	1,254	34.2	352	9.6
Debtor/Creditor	1,957	71.2	670	24.4	121	4.4
Wills/Estates	1,614	62.5	883	34.2	84	3.3
Adult Guardianship/Conservatorship	611	49.3	119	9.6	510	41.1
Advanced Directives/POAs	282	46.4	304	50.0	22	3.6
Abuse/Violence	392	80.3	16	3.3	80	16.4
Public Entitlement	376	68.1	81	14.7	95	17.2
Family Law	339	71.8	49	10.4	84	17.8
Other	3,796	82.8	195	11.0	108	6.1

N=17,304

Guardianship Related Services

Guardianships in Idaho are governed by Idaho Code § 15-5-301 *et seq.* This statute is based on the Uniform Probate Code and mirrors guardianship laws in many other states. Idaho’s guardianship statute states the goal of maximizing independence of the ward as follows:

It is desirable to make available the least restrictive form of guardianship to assist persons who are only partially incapable of caring for their own needs. Recognizing that every individual has unique needs and differing abilities, the public welfare should be promoted by establishing a guardianship that permits incapacitated persons to participate as fully as possible in all decisions affecting them Idaho Code § 15-5-303.

Interviewees representing AP, BOCGs and attorneys involved in guardianships emphasized the importance of court involvement in an individualized process for each case because of the control a guardianship grants a guardian over a ward. Interviewees noted that this process unavoidably required a large amount of human capital. Specifically, establishing a guardianship requires the proposed guardian to hire an attorney to petition the guardianship. The attorney must draft and file numerous court documents, work to have the court appoint a doctor or other expert to opine as to the proposed ward’s capacity or health condition, arrange for the appointment of a guardian ad litem to represent the proposed ward, and arrange for the appointment of a court visitor to report on the ward’s capacity. This proposed guardian must undergo a background check (\$65 fee) and complete the Supreme Court’s online training and certification (\$25 fee). The statute also provides for more expedited establishment of a 90-day temporary guardianship based on documentary evidence, with subsequent hearings to establish full guardianships.

As explained by one interviewee, representing the proposed guardian involves a substantially higher amount of attorney time and effort than serving as the guardian ad litem. This attorney also noted that the additional requirements for the proposed guardian to undergo online training and a background check further add to the time involved for the attorney because the attorney must follow up with the client to make sure these additional requirements have been completed. Although interviewees generally viewed these additional requirements as beneficial for the ward and individuals serving as guardians for the first time, they create human capital costs that go beyond the fees involved.

County Boards of the Community Guardian

Pursuant to Idaho Code § 31-3401 *et seq.*, county governments have the discretionary authority to provide nonmedical assistance to indigent residents of the county. Under this authority, many counties have established BOCGs. In general, these boards are set up to serve as the guardian for indigent residents who do not have a family member capable of being a guardian. These boards are made up of volunteers who are appointed by the county commissioners to serve as board members and are required to meet on a quarterly basis.

There is a great amount variation, however, regarding specific details of how different BOCGs function, how potential cases are referred and reviewed, the types of cases accepted, and the duties of board members in monitoring wards. There are currently eight counties that do not have a BOCG and half-dozen counties for which the current status of a BOCG is unclear. Commonly discussed variations in BOCGs include the following:

- the criteria and process for accepting applications for wards
- source of referrals to the board
- responsiveness in handling urgent cases
- county funding amounts, reliance on volunteers vs. paid staff
- source of legal representation
- division of responsibilities of board members
- single vs. multi-county boards

Rural BOCGs

The research team interviewed individuals involved with BOCGs in several rural parts of the state, as well as AP and ILAS personnel regarding their interactions with BOCGs. Based on these interviews, it appeared there is a high degree of variation in the function of BOCGs in different communities. One theme that emerged is that the highest-functioning boards in rural areas are: (1) composed of capable and highly dedicated volunteers and (2) treated as a priority and supported by the county commissioners, county attorneys, and/or other influential community stakeholders.

Some rural BOCGs are structured so that the board itself is primarily responsible for reviewing applications that a variety of community sources refer to them. For other boards, attorneys employed by the county play a greater role in reviewing potential cases and referring them to board members. Several interviewees mentioned BOCGs that were created as partnerships between multiple adjoining rural counties. In one such partnership, the county prosecutor's office in one county was tasked with representing the board in petitioning for guardianships, and the other county's attorneys were responsible for representing the ward as the guardian ad litem.

Rural BOCGs apparently vary in their responsiveness in addressing urgent situations and in their willingness to take on different cases. Several AP supervisors in different parts of the state noted that

some of the counties they serve have well-functioning BOCGs to which they feel comfortable referring cases, while others do not. In particular, one AP supervisor expressed concern regarding a BOCG's refusal to accept cases where there were any family members – even families members who were suspected of exploitation or abuse of the would-be ward. Similarly, AP personnel noted that some BOCGs focus primarily on individuals in long-term care facilities rather than in community settings.

In interviews with board members of two rural BOCGs regarded highly by other contacts, both board members mentioned that their respective boards would accept a case where a family member was suspected of abusing or exploiting the potential ward. Both of these board members emphasized the strong support of their respective counties. One emphasized the importance of the involvement of the deputy county prosecutor assigned to overseeing guardianships. The other noted that the impetus for the board was a local hospital identifying the need for such a BOCG. Both of these boards also consisted of capable and highly dedicated volunteers. One board member expressed frustration over the increasing statewide oversight involved in appointing guardians, feeling that more oversight should reside locally and that the statewide guardian certification program is unnecessary for a BOCG with experienced board members. Both board members expressed a high amount of pride in the service their boards provide to their communities.

Ada County BOCG

Given that Ada County's BOCG is somewhat unique in the state, it is worth summarizing how it differs from BOCGs typically found in more rural areas. Ada County has a full-time employee who serves as the executive director for its BOCG. This position coordinates applications for guardianships through the BOCG, handles the day-to-day service coordination and management for wards, and prepares the annual reports for wards – all under the supervision and guidance of board members appointed by the county commissioners. This person also coordinates transfers of guardianships between different regions and recruits individual volunteers, with the aim of having one volunteer assigned to each ward as a designated representative for that ward. Accordingly, even though the board is the legal guardian, the use of volunteer representatives allows it to provide individualized attention to a higher number of wards.

The Ada County board typically does not accept individuals with assets (which would require a conservatorship) and focuses on serving individuals who do not have a family member in a position to serve as a guardian. However, if a case is referred to the board where a potentially available family is suspected of exploiting or abusing the proposed ward, the board would accept the case. Civil deputies in the county prosecutor's office provide legal representation in petitioning the guardianship. In cases where it is unclear whether a family member is in a position to serve as a guardian, the board may create a 90-day temporary guardianship to assure the ward's immediate situation is addressed, and then may transfer the guardianship to a family member.

Proposed wards are referred to the board through a variety of sources including health care facilities, law enforcement, and AP. Potential wards may include people already living in LTC facilities, living in community settings, or who are homeless. One person involved with the board estimated that most of the wards had at one point been homeless in their lives, and many have impaired mental function caused in part by years of alcohol abuse. Some of the wards had initially been under guardianships with

BOCGs in other parts of the state but had the guardianship transferred to the Ada County board after the ward moved to a LTC facility in the Treasure Valley.⁸

Guardianship Monitoring Programs

After the guardianship is established, the guardian is required to submit a report to the court on a yearly basis. The statute anticipates that the attorney appointed to serve as the ward's guardian ad litem may continue to monitor the guardianships. However, several informants noted that in practice this rarely occurs in cases involving low-income individuals. One attorney noted that attorneys appointed as guardians ad litem may not know of the potential ongoing commitment. As such, according to one interviewee, in some parts of the state it appeared that no one was reading the annual reports submitted by guardians.

Programs used to monitor guardianships vary around the state. For nearly two decades, Ada County has operated a Guardianship Monitoring Program.⁹ To operate this program, the county has a full-time employee who assures annual reports are submitted and reads all of the annual reports. This employee also recruits and supervises volunteers to visit guardians and wards, with the goal of visiting each ward at least once a year.

The Idaho Supreme Court recently implemented district-wide guardianship monitoring programs in the Third Judicial District and Fifth Judicial District, largely modeled after Ada County's program. As of the time of this assessment, these programs were still in the process of implementation and none of the informants contacted had yet had any experience working with these programs. However, there was near universal support for this type of oversight, with some AAA personnel very enthusiastic about the creation of these programs.

Volunteer Clinics and Pro Bono Services

Law Schools

This section describes findings from law school curricula related to vulnerable low-income adults. There are currently two law schools in the state of Idaho: University of Idaho, College of Law (U of I) and Concordia University, School of Law (CU).

U of I, first established in 1909, has its main campus in Moscow, Idaho, offering a full-time three year program in Moscow, ID with an option to complete the second and third year in Boise. In 2012, CU opened its doors in Boise. CU is not currently accredited by the American Bar Association (ABA), but is seeking provisional accreditation with the plan to obtain full accreditation by the ABA.

Clinical, Externship, and Pro-bono Programs Provided by Law Schools

Both law schools have working relationships with community partners including ILA, IVLP, and the Court Assistance Office (CAO), in effort to serve as a resource for these organizations in serving legal

⁸ Additional information on the Ada County BOCG is available here: <https://adacounty.id.gov/Administration/Community-Guardian>.

⁹ Additional information on this program is available here: http://fourthjudicialcourt.idaho.gov/ada/guardianship_monitoring.html.

needs in the community. While neither law school maintains data specific to serving low-income older adults, both law schools have experiential learning programs that enable students to serve older adults through legal clinics, pro bono programs, and externship opportunities. Each law school also requires their students to complete a minimum number of pro-bono hours prior to graduation.¹⁰ Thus, prior to graduation, law school students from both schools are required to have completed at least 40 hours of attorney-supervised pro bono legal work.

Neither law school in Idaho currently operates clinics specifically focused on elder law. However, U of I does offer an elective two credit course in elder law. Additionally, U of I also offers a class called “Semester in Practice,” where students are provided with the opportunity to attend periodic classes and perform legal work in the public or private sector under the supervision of a faculty supervisor. This class is only open to students in their last year of law school. Further, the school offers options for students to continue to gain practical experience in classes such as “Public Service Externship” and “Legal Aid Clinic”. In the Public Service Externship class, students perform legal work in selected public service positions under the supervision of experienced judges and lawyers.

Law students also contribute to senior legal services through group projects, such as the U of I’s Wills Project. The Wills Project is a group event in which students educate needy and underserved members of the public regarding wills, living wills, and powers of attorney. They then prepare such documents for the clients. This is all performed under the supervision of attorneys and in cooperation with the Taxation, Probate, & Trust Law Section of the Idaho State Bar (ISB) and the IVLP. The project has served groups including elderly fixed income individuals, same-sex and other unmarried couples, and veterans.

Finally, U of I has a tax law clinic that may be a resource for some older adults. The tax clinic helps low income taxpayers with their IRS controversies. The income ceiling is 250% of the poverty level. For one person, the maximum income from all sources is about \$27,000 a year, raising an additional \$9,000 per each additional family member. We were unable to obtain data as to the specific case-types or number of cases.

Law School Students Working with Idaho Legal Aid

As mentioned above, ILAS is a major legal resource for low-income individuals. Law students contribute to ILAS through either externships or pro bono hours at each of ILAS’s seven offices. Students from both law schools volunteer at ILAS. Law school students are able to volunteer and help perform tasks such as: (1) fact gathering; (2) call-backs, (3) research, (4) reviewing the Senior Legal Guide handbook, and other various tasks and projects. ILAS can oversee 2-4 law school student volunteers during a period of time. Students can also help in areas of Medicaid eligibility, advanced directives, and wills.

An example of a project that serves the low-income elderly was the update of the Senior Legal Handbook, which had last been updated in 2011. Two law school students reviewed the entire text of the website to identify and update any changes since 2011, ranging from phone numbers to substantive law.

¹⁰ U of I requires 40 pro-bono hours; CU requires 50 pro-bono hours.

Another example is the Senior Legal Hotline operated by ILAS, with which students can help gather facts to assist in cases that come through the hotline. These cases have included fraud, landlord-tenant, harassment, predatory lending, guardianship, and divorce. Students have shared that the senior often just needs a listening ear to help connect them to resources that are already available. Seniors are often scared to reach out because they are worried they could be taken advantage of, especially if this has happened in the past. The Hotline allows attorneys and law students to help provide these vulnerable individuals with a resource that works to protect them. Law students are especially important in this process because they are able to give a little more time to listening, allowing the often over-extended attorneys the opportunity to provide more comprehensive legal advice and support.

Law students usually do not work with senior's in-person because seniors often have mobility appointments. This means that they only come in once and they meet with the attorney right away. With some housing clients, the law student is able to work on fact gathering because those cases may take longer and require more effort.

Challenges and Opportunities Law Schools Face in Serving as a Resource

Because CU has been open for a mere two years, there are not currently any legal clinics established providing pro-bono services directly from the school. However, this fall, the school plans to offer a Housing Clinic in partnership with ILA. Students will handle eviction cases and represent tenants in Fourth District Court. Often the landlords are represented but the tenants are not. Students will do the intake, client interviews, mediation, and court hearings. This program will be serving low-income older adults and the school will be tracking this information. CU is also a participant in the IOCA's Advisory Committee for this grant and is looking to be involved in future work for older adults.

With the experiential learning programs being offered at each law school, law schools have the opportunity to become an even greater resource for the low-income elderly. A general theme regarding law school students is their important role in serving older and vulnerable adults in their practice experiences.

Idaho Volunteer Lawyers Program

The Idaho Law Foundation was established in 1975 with the mission to “*support the right of all people to live in a peaceful community. To support this fundamental right, we will educate all people about the role of law in a democratic society, provide opportunities for people to avoid and resolve conflicts, and enhance the education and competence of lawyers.*”¹¹ In an effort to help provide low income individuals and families increased access to legal services, one of the programs created was IVLP.¹² IVLP serves two primary constituent groups: (1) Idahoans that require, but cannot afford, civil legal services and; (2) ISB members who seek to satisfy their professional obligation of providing pro bono service. Thus, it provides a service for both attorneys and low-income individuals by connecting individuals in need with competent and willing attorneys, ready to volunteer their time. Additionally,

¹¹ http://www.isb.idaho.gov/ilf/ilf_info.html#governance; Idaho Law Foundation Mission Statement.

¹² [2012-2013 Idaho Law Foundation Annual Report](#).

IVLP can serve as “traffic control” by helping pre-screen applicants to ensure only the most meritorious receive free legal help.

IVLP does not, itself, directly offer legal advice—alternatively, the program functions as an intermediary between the potential client and volunteer attorney. Attorneys who participate in the program are not considered part of IVLP staff. Currently, IVLP has one part-time attorney who also serves as the program director. The program has full-time, bilingual employees who answer calls, conduct intake, and make the referrals to community partners, such as ILAS or CAOs, where appropriate. If the individual may qualify for services at IVLP, they are provided an application form.

IVLP conducts outreach events throughout the year to recruit volunteer attorneys throughout Idaho. Events include: (1) Annual Resolution Meeting a.k.a. “the Road Show,” (2) CLE’s, and (3) the ISB annual convention. Also, IVLP advertises their program in the *Advocate*, a publication distributed monthly to all ISB members.

IVLP recruits attorneys to provide pro bono services on a range of civil issues, including those impacting low-income seniors. Using IVLP is a benefit to attorneys because they will receive IVLP’s legal malpractice insurance coverage (secondary if the attorney already carries a policy), and the attorney’s client will be entitled to an automatic waiver of the court filing fee. Also, IVLP can provide an attorney mentor to an attorney taking a case outside of their regular practice area. For example, if an attorney is fresh out of law school and uncomfortable taking a complex housing issue, they can be paired with a mentor attorney to guide them through the case. In 2013, IVLP had 750 Idaho attorneys who accepted or completed pro bono assignments in family law, immigration, consumer protection, wills, benefits, foreclosure matters, nonprofit corporation issues and other special needs for low income Idahoans.¹³

IVLP also serves as a screening and referral resource. For example, IVLP receives approximately 450 calls per month inquiring about services. Of those, approximately 35 applications will be accepted for evaluation. Upon evaluation, IVLP will decide whether there is a volunteer attorney to take the case, or whether to refer the applicant to another provider.

IVLP Serving the Senior Population

IVLP provides an array of legal resources for seniors... IVLP works with the AAAs to provide volunteer attorneys to staff legal clinics offered at senior centers in each region. Additionally, IVLP provides legal workshops specifically for seniors around the state. From January to June 2014, 22 of these clinics have been offered. These events function as part workshop and part clinic. For example, an attorney will answer legal questions that the seniors attending may have, as well as to provide an information session on a specific area of the law.

During the clinics, the attorney provides as much legal advice as possible within the time allotted per participant, usually about 20 minutes. Some of these consultations will evolve into more extended legal representation. IVLP collects demographic information and records the number of seniors attending each workshop. For this report, we were unable to obtain data on specific case-types or number of cases

¹³ For more information regarding the Wall of Fame, see http://www.isb.idaho.gov/ilf/ivlp/wall_of_fame.html.

taken over a date range. However, on average, two to four participants receive individual legal advice apart from the general information session during the clinics.

From January through June 2014, there were 44 IVLP cases opened for seniors, as follows:

- 1 tenant/landlord issue
- 1 child support
- 3 were in bankruptcy
- 3 in consumer protection
- 3 in divorce
- 4 mortgage/foreclosure issue
- 5 in guardianship represented protected person
- 7 seniors seeking guardianship of a minor
- 7 wills
- 10 immigration issues

IVLP funding comes from different sources including: ILAS (using a share of its LSC funding), grants from the ICOA, the Interest on Lawyers Trust Accounts program (IOLTA); and private donors. Additionally, IVLP is able to utilize volunteer law school students to increase program efficiency while providing them a valuable learning experience. In the past, law school students have assisted in updating materials for clinics and workshops such as the Senior Legal Workshop and Veteran's clinic, as well as attending workshops to prescreen attendees' and distribute material. Furthermore, students have helped in pre-screening refugees with immigration issues, often times working with senior refugees directly in fact gathering during the pre-screen. Accordingly, IVLP plays a role in linking low-income seniors with pro bono legal services. Yet because IVLP relies on volunteer assistance from attorneys, there are inherent limits in the extent and consistency of the services it can provide.

Interest on Lawyers Trust Accounts

The Idaho Law Foundation's IOLTA grant program aggregates the interest earned from attorney client trust accounts for distribution for charitable purposes. IOLTA uses the interest from these accounts to fund grants to benefit the community, including providing legal services to low-income individuals.¹⁴ In 2014, IOLTA funds were awarded to ILAS for domestic violence cases and to the IVLP. However, due to the very low interest rates in financial markets, IOLTA grants as a source of funding for ILAS has been declining. For example, in 2008, ILAS received \$190,130 from IOLTA; in 2014 ILAS received only approximately \$37,000. Based on ILAS data, IOLTA funding was used for only a handful of cases for clients age 60 and over in the last year.

Court Assistance Office

The statewide Court Assistance Office (CAO) is operated through the judicial branch and focuses primarily on offering free court-approved forms and providing assistance via telephone or in-person at county courthouses in identifying and completing these forms.¹⁵ CAO partnered with ILAS in developing forms and educational materials. The CAO website and offices at courthouses provide access to reliable

¹⁴ Idaho Law Foundation (2014), IOLTA Information for Attorneys. <http://www.isb.idaho.gov/ilf/iolta/grants.html>.

¹⁵ Idaho State Judicial Branch, Court Assistance Office (2014). <http://www.courtselfhelp.idaho.gov/>.

educational resources and information about other resources, including ILAS, the IVLP, the Senior Legal Hotline, and the Lawyer Referral Service (LRS). One AAA information and referral specialist interviewee noted that she infrequently refers seniors to CAO programs given the availability of the Senior Legal Hotline. This individual, however, also noted that in recent years she has seen an increase in the number of “younger seniors” comfortable locating and using resources online.

Accordingly, the CAO may play an important role in providing resources for issues that can be addressed through straightforward forms. It may also serve as an information entry point for seniors with legal needs. The CAO could not provide data based on age that would reflect all visits. In the last year, however, the CAO website had a total of 307,558 visits. Table 17 provides the traffic to the following resources on the CAO website during the last year related to some legal issues older adults commonly face. Worthy of note is that there were nearly 8,000 visitors to page containing the self-help guardianship and conservatorship forms.

Table 17. Idaho Court Assistance Website Page Visits, July 1, 2013 to June 30, 2014

Guardianship and Conservatorship Forms page visits	7,944
Wills and Probate Publications (six brochures)	3,096
Guardianship/Conservatorship Q&A Brochure Views	2,035
SSI and Social Security Disability Brochure Views	1,138
Link to Senior Legal Hotline	570

Lawyer Referral Service

The Lawyer Referral Service (LRS) is a program operated by ISB in which attorneys in private practice pay a small annual fee to be listed in an online directory categorized by location and areas of practice.¹⁶ Attorneys in the LRS must commit to offering half-hour office consultations for \$35 or less. The LRS lists 175 attorneys in areas of practice related to elder law, including conservatorships, Medicaid/Medicare, nursing home/elder care, grandparent rights, and wills, trusts, and estates. However, because attorneys simply pay a fee to be listed in the directory under different categories and commit to provide low-cost initial consultations, the LRS does not gauge the actual experience of attorneys in these practice areas. Yet because of the low priced initial consultations, LRS attorneys may serve as a resource for some middle-income seniors.

Other Attorneys in Private Practice

In addition to the LRS, other resources around the state may put seniors in contact with attorneys in private practice. One AAA has developed a list of “fair market” attorneys, consisting of attorneys who have committed to take into account potential clients’ ability to pay and to provide services on a sliding fee scale where possible. However, this “fair market” designation does not provide a specific fee criteria for listed attorneys. AAA personnel then use this list as a resource to provide to individuals facing issues a private attorney could assist them with. One AP investigator specifically mentioned providing this list

¹⁶ Idaho State Bar Lawyer Referral Service (2014). About Lawyer Referral Service. http://www.isb.idaho.gov/member_services/lrs/about_lrs.html.

along with the State Bar’s “Guardianships and Conservatorships Questions & Answers” brochure¹⁷ to family members with questions about resources to establish guardianships.

Idaho Attorney General’s Office

Several aspects of activities by the Idaho Office of the Attorney General (OAG) relate to the legal needs of older adults. Specifically, the Consumer Protection Division investigates complaints of scams that may impact seniors. OAG also provides informational resources for seniors, including a Senior Citizens Manual, providing information on a range of legal issues.¹⁸ The OAG has also provided guidance and explanation regarding Idaho’s advance health care directive options, which have been adapted or referenced by other community partners or agencies including the Idaho Quality of Life Coalition¹⁹ and the Idaho Secretary of State’s Office.²⁰

Local Law Enforcement and Elder Abuse Task Force

We interviewed law enforcement personnel involved with a regional elder abuse task force composed of various groups including aging services personal, prosecutors, AP investigators, hospitals. Local law enforcement also play a role in identifying seniors in dangerous situations and linking older and vulnerable adults with services related to legal needs. For example, one officer mentioned contacting ILAS for assistance qualifying a potential victim for Medicaid long-term care. These officers mentioned identified guardianship-related services and coordination of temporary housing as major needs for victims of potential elder abuse.

These officers noted the importance of coordination between different agencies and the value of an elder abuse task force involving multiple agencies. In particular, task force members noted the role the task force in working with area hospitals and in coordinating a process for obtaining affidavits from AP investigators to file for emergency guardianship.

Similar to the focus of AP investigators, law enforcement personnel focus first on “protecting the individual.” These officers noted that elder abuse cases involving neglect were difficult to prosecute because they have to prove that the perpetrator failed to do something that they should have. However, these officers noted that other than criminal restitution in cases of financial exploitation, the same services and resources would be available to victims regardless of whether an accused perpetrator is prosecuted or not.

Discussion of Current Capacity

In analyzing the existing resources and gaps in these resources, the following themes and points appear:

- gaps in resources for guardianship and less-restrictive alternatives
- issues related to Medicaid and public assistance programs; and

¹⁷ Idaho State Bar Taxation, Probate & Trust Law Section (2011). Guardianship & conservatorship: Questions and answers. <http://www.courtselfhelp.idaho.gov/brochures/G-3.pdf>.

¹⁸ Idaho Attorney General, Resources for Seniors. http://www.ag.idaho.gov/seniorCitizens/seniorCitizens_index.html.

¹⁹ Idaho Quality of Life Coalition (n.d.) Idaho Advance Directives. <http://www.idqol.org/page/idaho-advance-directives>.

²⁰ Idaho Secretary of State (n.d.) Health Care Directive Registry. <http://www.sos.idaho.gov/general/hcdr.htm>.

- maintaining and increasing access to timely services.

Gaps in Guardianship and Guardianship-Alternative Resources

Various key informants engaged in direct service delivery emphasized the need to address deficiencies in the resources available for establishing guardianships throughout the state. Some expressed concern regarding the gaps in funding available to represent a proposed low-income guardian in petitioning for a guardianship. However, other informants also expressed concern over situations where a guardianship may be pursued without adequately considering less-restrictive means to assure the individual's protection.

These expressed views reflect policy-level efforts nationwide to promote less restrictive alternatives where possible, while recognizing the importance of assuring guardianship is available where necessary to appropriately protect and care for a vulnerable person.²¹ Accordingly, although some informants expressed concern in terms of a perceived need for guardianships, the gap may be best described as a need for resources to accomplish the necessary protections through less restrictive means or a guardianship. In other words, in cases where aging and legal services personnel perceive an individual in need of protection, there was a gap in resources to take a next step, including cases where less restrictive alternative to full guardianship may be appropriate.

These gaps in guardianship and guardianship-alternative services may impact a relatively small number of low-income older adults, and in some small rural counties there may be no more than a handful of people impacted each year. However, these gaps in the system impact highly vulnerable individuals at a very crucial time, during which there is an opportunity to proactively increase quality of life and/or minimize future costs associated with unnecessary hospitalizations, involvement of law enforcement and emergency responders, and other drains on the system and limitations on personal independence.

The following scenarios presented by interviewees highlight potential gaps created by these apparent deficiencies in guardianship and guardianship-alternative resources.

***Scenario 1:** An elderly couple relies on social security as their sole source of income, and the wife is the caregiver for her husband who has dementia. The husband is uncooperative with his medical care, and the wife believes guardianship could be appropriate. She contacts the local legal aid office, but is informed that the office's only available funding cannot be used for petitioning a guardianship (only for representing her husband as the proposed ward). Because the attorney time and effort involved is substantially greater for petitioning a guardianship, private attorneys in the area all charge more than she can afford for this service (at least \$2000-\$3000). However, there are attorneys in the community who would be willing to represent a proposed ward as a guardian ad litem on a pro bono basis if requested by the court.*

²¹ See e.g., National Association of Court Management (2013) Adult guardianship guide, <https://nacmnet.org/sites/default/files/publications/AdultGuardianshipGuide.pdf>, p. 6 (summarizing model standard for less intrusive alternatives for courts to follow); American Bar Association (2006), Judicial determination of capacity of older adults in guardianship proceeding. http://www.americanbar.org/content/dam/aba/administrative/law_aging/2011/2011_aging_bk_judges_capacity.authcheckdam.pdf, p. 6 (summarizing ways judges can assess availability of less restrictive alternatives in guardianship cases).

Scenario 2: *An older woman with dementia lives by herself in a trailer in a remote part of a rural county that does not have a functioning BOCG. She has locked herself out of her home and law enforcement and AP have been called out several times. In both cases, law enforcement determined that she was not in imminent danger of harm and she refused to leave her home voluntarily. The AP supervisor is frustrated because he fears she will die from exposure if something similar occurs during the winter months. AP has no resources to petition for a guardianship, which would be necessary to transfer her to a LTC facility. If she resided in the adjoining county, the AP supervisor could have referred the case to that county's BOCG.*

Scenario 3: *A 59-year-old man with autism spectrum disorder is living on his own for the first time in his life after the death of a family member who had been taking care of him. He is observed by AP living in filthy conditions and eating only meals delivered by Meals-on-Wheels on weekdays. The county's BOCG will only accept cases for individuals already living in LTC facilities. Several years ago, this AP office had a contract with a local attorney to assist in establishing guardianships in these types of cases, but these funds have since been eliminated.*

Although interviewees who provided these simplified scenarios presented them in the context of illustrating gaps in resources to establish guardianship, several reviewers of an initial draft of this report raised the question of whether measures less restrictive than guardianship had been properly considered in these cases. One interviewee also discussed the importance of fully considering the value of informal, non-legal resources such as neighbors and community organizations such as churches in helping individuals remain in the community. A court would ultimately determine whether a guardianship is necessary in each case, or whether there are less restrictive means available to protect the individual. However, these scenarios highlight concern by AP and legal aid personnel regarding a gap in resources necessary to take the next step where they encounter low-income older adults in potentially dangerous situations.

Need for Greater Education Regarding Appropriate Role of Guardianship and Less-Restrictive Alternatives

Considering the emphasis on guardianship specifically among direct service providers interviewed, there may be a need for additional educational resources regarding less-restrictive alternatives to guardianship. Other aspects of the data collected reflect this need for increased training regarding guardianship alternatives. One interviewee observed that both family members and aging service providers may simply want to take care of the situation with a guardianship, without fully considering the implications. This individual mentioned even if a vulnerable person makes choices that family members do not like, this does not mean a guardianship is needed without considering other options.

Other aspects of this assessment similarly reflect the interest in greater education on the appropriate role of guardianship and alternatives. One Advisory Committee member mentioned that although Idaho's statute allows for limited guardianship (which allows the protected individual to retain autonomy as to some decisions); this option is rarely used in practice. Another Advisory Committee member noted a high level of interest among bar members in free continuing legal education seminars focused on guardianship and alternatives. Additionally, an AP investigator explained frequently providing family members with ISB's procedure on guardianship.

Gaps in Resources for Petitioning Guardianships

The availability of resources for low-income seniors in petitioning guardianships varies substantially around the state. However, AAA information and referral, AP, and ILAS personnel from

several communities all expressed that these resources are insufficient. Although the overall representation of guardianships in the ILAS data is minimal (7% of overall total), the level of action/service appears to be more extensive than for other types of legal issues. Specifically, 41% of ILAS's guardianship cases involved "extensive service," whereas the next highest category is 17.8% of family law cases identified as "extensive service." This higher level of involvement reflects the resource-intensive nature of establishing guardianships as noted by informants. Unlike other issues which may be addressed through explaining options or drafting simple documents, guardianships require attorney representation through a court proceeding.

ILAS involvement in guardianship cases seems to be concentrated in Area I and Area V. 11% of the cases in Area I and almost one-fourth of the cases in Area V were guardianship cases. This higher involvement of ILAS in these areas is likely based on the ILAS office staff viewing this as a priority in the community, and reflects the patchwork variation in other resources available throughout the state. However, providing services in guardianship cases typically involves significant commitment of resources for the ILAS office. One ILAS attorney noted that cases involving a petition for a guardianship typically stay open for two years so ILAS attorneys can assist the guardian in filing the annual report for that time. ILAS case data reflect this commitment of resources. Those AAAs where the ILAS office plays a greater role in guardianship cases also reported higher levels of service provided. For example, Area V had the highest proportion of guardianship cases (25%) and also had the lowest proportion of cases involving only "counsel & advice" as the level of service (14%). By comparison, only 5% of ILAS cases in Area III involved guardianships and 80% of all cases in Area III were at the "counsel & advice" level of service.

Based on an interview with an ILAS attorney, one ILAS office had made it a priority to provide representation in petitioning for guardianships in situations like "Scenario 1" cited above. However, this office received notice that federal AoA funds could not be used for representation in petitioning for guardianships, but that it could be used for defending proposed wards. An attorney in this office expressed frustration with this restriction on funds, noting that representing a petitioner for a needed guardianship is benefiting the proposed ward. This attorney also emphasized that because representing the petitioner in guardianships involves substantially more work, hiring a private attorney is cost prohibitive for legal aid clients--even if legal aid is available to represent the proposed ward. This attorney also viewed ILAS as particularly well suited to efficiently represent petitioners for guardianships, considering that courts will waive court fees and that legal aid attorneys can keep the cases open in order to assist guardians in preparing annual reports for the first two years. Accordingly, funding for ILAS to provide representation in petitioning guardianships may also aid in the ongoing monitoring of guardianships. Given that AAA funding is unavailable for petitioning for guardianships, this office is currently trying to obtain funding from a local nonprofit hospital and other sources to assist in addressing this gap in services.

AP personnel in several parts of the state reiterated concerns regarding resources to establish guardianships. Several AP supervisors shared instances where a guardianship was really necessary to protect a vulnerable adult, but there were no resources available (see for example "Scenarios 2 and 3" above). One interviewee indicated that it would cost at least \$3000-\$3500 to cover the cost of petitioning a guardianship with a private attorney. Two other interviewees estimated this would cost at least \$2000. Regardless, however, nearly all interviewees stated these amounts would be cost prohibitive for a large segment of low-income seniors.

One AP supervisor stated that several years ago there had been funding available for AP to hire an attorney to petition a guardianship on behalf of an individual in a situation like "Scenario 3" above, but that this funding had since been eliminated. This AP supervisor estimated that in his or her AAA, when

this funding had been available, there were fewer than half-a-dozen cases a year where a family member or the BOCG could not step in and this funding needed to be used. However, this individual was particularly concerned about these cases, saying “we don’t have the ability to protect our people.”

Guardianships Remain a Necessary Complement to Powers of Attorneys

Several interviewees discussed the role of using powers of attorney to potentially prevent the need for guardianships in certain situations. Interviewees noted both the value and limits of powers of attorney. Specifically, a power of attorney can be an effective tool where the individual and family members are cooperative in terms of coordinating care for the individual. One AP supervisor noted that as an aging person begins needing additional caregiving, creating a power of attorney can be an effective tool to “grease the wheels” for the individual and family members to plan for future services.

However, powers of attorney are less useful where the individual is not cooperative, already has limited decision making capacity, or when there are conflicts between family members. One AP supervisor noted the ease with which powers can be created and revoked and that this may lead to confusion. This individual cited examples of where multiple family members had presented different documents and claimed to hold the power of attorney for one individual. Similarly, an attorney interviewed noted that a power of attorney would not do anything in a situation where an individual refuses to accept necessary care. In short, it appears that although promoting the use of powers of attorney may defer or possibly prevent the need for a guardianship in some situations; guardianships need to be viable and accessible option for other situations. Several interviewees used the analogy of powers of attorney and guardianships being different “tools” appropriate under different sets of circumstances.

Patchwork Variation in Boards of Community Guardians by County

A general theme regarding BOCGs statewide is that they play an important role in serving vulnerable and older adults with no other responsible family members, and the best functioning BOCGs have strong local support. One attorney noted, however, that given that BOCGs typically rely heavily on volunteer support, there are inherent limitations in what they are able to do. Law enforcement personnel interviewed also expressed the important role their community’s BOCG plays in assisting with individuals in potentially dangerous situations. Additionally, it is not the role of even full-functioning BOCGs to serve a low-income individual who has a family member willing to serve as a guardian but is unable to afford petitioning for this guardianship. Given the variation of BOCGs, they are an important and reliable resource in some, but not all, communities.

Issues with Medicaid and Government Benefits

Another major concern identified by key informants was the need for greater assistance in accessing Medicaid and other government benefits programs. Most AAA personnel interviewed mentioned qualifying for Medicaid and other government benefits as their next biggest concern following the guardianship process. The need for legal assistance related to Medicaid and other government benefits is reflected in the ten-year ILAS data. Of all categories of services, Medicaid/Medicare cases accounted for the highest proportion of ILAS cases (20.5%) followed by housing (17.9%), Debtor/Creditor (14.9%) and Wills/Estates (14.7%).

AP and AAA information and referral personnel mentioned commonly seeing misunderstandings and misperceptions regarding Medicaid funding for LTC in interacting with older adults and families. They expressed concern that some individuals were hesitant to look into Medicaid funded services because of “stigma” or erroneous belief that Medicaid would take their home as soon as they qualified. However, the role of planning for Medicaid and other government benefits in serving middle-income seniors is reflected in the fact that the highest proportion of ILAS services provided to individuals over 125% of the poverty level (i.e., “Over Income”) was for Wills/Trusts (54.7%) and Medicaid/Medicare (50.4%).

One AP supervisor mentioned concern about the lag-time between applying for a social security disability rating and receiving that rating. He gave the example of a 59-year-old woman who needed home health services after becoming permanently disabled from an injury. It took her nine months to receive a disability rating, which was required for her to receive home health services through Idaho Medicaid's Aged & Disabled waiver program. There was also concern that some individuals had difficulty obtaining information about programs for community-based services from Health & Welfare personnel.

Similarly, some members of the Advisory Committee expressed concern about the lack of training for attorneys on government benefits related topics. One member noted that some attorneys may actually provide bad advice related to Medicaid planning, and then expressed the need for greater training related to complex benefits programs. In addition, focus group members were concerned about the amount of misinformation regarding benefits and estate planning tools. One AAA employee noted that for many individuals, an attorney consultation laying out various planning options specific to their circumstances would be very beneficial. In this regard, ILAS and the Senior Legal Hotline may play a crucial role.

Need for Timely Access to the Appropriate Level of Service

One theme that emerged is the need for timely access to services at the appropriate level. Several informants mentioned the potential role of powers of attorney as a preventive strategy to prevent or delay the need for a guardianship. Another informant mentioned the importance of educating individuals about Medicaid planning before they begin giving property away without realizing this could disqualify them from Medicaid funded LTC. In terms of delivering timely and appropriate services, the Senior Legal Hotline plays a central role. Moreover, based on the variation in demographic factors and available services in different geographic areas, service providers should have flexibility to target services to meet the needs of the community.

Senior Legal Hotline

Both comments by legal and aging service providers and ILAS case data show the vital role the Senior Legal Hotline plays in providing timely services to seniors. Over the ten-year period, the Senior Legal Hotline accounted for 54.5% of all services provided to individuals age 60 and over by ILA. Additionally, this data does not reflect cases in which services began with assistance over the Hotline before the case was transferred to another funding source for more extensive services. And several AAAs noted that the Hotline is a resource to which they routinely refer individuals with legal questions. One AAA information and referral specialist noted that in the absence of the hotline, more individuals would be referred directly to other ILAS services. And because this resource is available over the phone from anywhere in Idaho, it also addresses concerns expressed by AAA personnel regarding limited access to services in rural areas. In short, it appears the hotline serves an important role in providing timely legal counsel and advice services that are accessible in any region of the state.

Demographic and Case Variation among AAAs

Given the variations around the state, assuring timely access to the appropriate level of service may require flexibility to meet the greatest needs of particular communities within each AAA. As illustrated by the discussion below, there is substantial variation in ILAS cases for individuals age 60 and over between AAAs and over time.

Client Age and Income Differences

ILAS serves the highest concentration of seniors age 81+ years and older in Area II (29.1% of ILAS cases for clients age 60+ years), Area I (31.2%) and Area V (31.8%). Whereas, the proportion of cases for clients in this oldest age group is lower Area in VI (17.9%), Area IV (20.5%) and Area III (21.7%). Similarly, the income levels of clients age 60+ served by ILAS varies by geography. The distribution of ILAS cases over income clients (i.e., over 125% FPL) versus not over income is most prevalent in Area II and III. 44.5% of all cases in Area II identified as “over income” and 51.7% of all cases in Area III identified as “over income.” By comparison, in Area I, 31.9% of all cases were for over-income clients and 25.1% of all cases in Area IV identified as “over income.”

Variation in Number of Cases in AAAs and Level of Action

The number of new cases among individuals age 60 and over has shifted over the past 10 years. During the first four or five years, a higher proportion of ILAS cases for older adults were in Areas III, IV, and V. In more recent years, a greater proportion of these cases have been in Area I and II. Finally, Area VI marked a significant proportion of cases in this past fiscal year (37.1% of Area VI cases in the ten year data collection period fell in FY 2014).

Additionally, there was a differential in terms of level of service in each particular geographic area. Over one-third (34.7%) of the ILAS cases in Area IV were identified as “extensive service” and close to 40% were identified as “limited action.” Over one-fourth (28.0%) of the cases in Area V were identified as “extensive service” and close to 48% were identified as “limited action.” Most of the cases (80%) in Area III are identified as “counsel and advice” (compared to 25.6% in Area IV and 14.2% in Area V). Similarly, most cases in Area I (63.0%) and Area VI (52.7%) are identified as “counsel and advice.” As mentioned above, there is an apparent relationship between involvement in guardianship cases and level of service, with areas that have a greater proportion of guardianship cases also typically providing more cases at higher levels of service.

Flexibility to Address Variation

This variation in the types of clients, number of cases, and level of service over time and based on geographic area suggests that the legal issues individuals encounter vary. These differences in ILAS cases may also reflect overall demographic variation and differences in the availability of other resources, such as BOGCs, law school clinics, volunteer lawyers, or affordable private practice attorneys. Given this existing variation, ILAS offices and similar providers need flexibility to deliver services that address priority needs within a community.

Survey of Attorneys in Private Practice

Methodology

A structured online survey for attorneys in private practice identified as practicing in some area of elder law was developed for this project. The purpose of this survey was to identify both the legal needs of older adults from the perspective of these lawyers and to identify the challenges associated with providing legal services to older adults.

In distributing this survey, our aim was to capture this population of attorneys who work on elder law issues for *at least part* of their practice. Using ISB's Online Lawyer Referral Service (LRS), the WestLaw legal directory, and Internet searches we compiled a list of 273 Idaho attorneys holding themselves out as practicing in any of the following areas related to elder law:

- Elder Law Generally
- Conservatorships
- Medicaid/Medicare
- Grandparent Rights
- Wills, Trusts, and Estates
- Social Security

Table 18 describes the characteristics of those attorneys who received the email survey. A high proportion of the attorneys identified practice in Area III (51.6%). Because LRS attorneys are required to offer initial half-hour consultations for \$35 or less, we were particularly interested in the role these attorneys may play in serving the needs of low- to middle-income older adults. 63% of the attorneys emailed were listed in at least one elder law related area in the LRS. Of the 273 attorneys identified, 25 either did not have email addresses listed or had invalid emails. Accordingly, the survey was sent to 248 email addresses associated with attorneys in private practice.

Table 18. Characteristics of Private Practice Attorneys Emailed Survey

Characteristics of Private Practice Attorneys Surveyed	N	%
Practice Location		
Area I	37	14.9
Area II	15	6.0
Area III	128	51.6
Area IV	23	9.3
Area V	16	6.4
Area VI	29	11.7
Listing Source		
LRS	157	63.3
Non-LRS	91	36.7

N = 248

Results

The findings from the analysis of the survey to private lawyers who have identified elder law as one of their areas of expertise are summarized in this section. The survey addressed the perspectives of these lawyers about Idaho’s capacity to serve the legal needs of older adults in the state of Idaho including the contact and representation of different legal issues as well as referral types, barriers to providing legal services, and needs for additional information or training. This section also includes analyses examining potential cross-sections of factors determined to have a substantive relationship.

From the 248 attorneys who were emailed the surveys, 24 (9.7%) were returned and included in the analysis. As such, the results must be interpreted with caution. As a snapshot of survey participants, approximately half of the respondents were from Area III. Approximately two-fifths (41.7%) of the participants reported that 5-30% of their clients were 60+ years of age. In financing their legal services for older adults, 42% of the participants reported they frequently had clients who could not afford to pay, yet less than 13% reported offering pro bono service frequently and only 21% reported frequently offering substantially reduced rates (50% of ordinary rate). Finally, 17% of the participants reported that Idaho does a poor job in meeting the legal needs of older adults with 54% perceiving that the State does a fair job. Table 19 summarizes this information.

Table 19. Demographic Characteristics of Private Lawyer Survey Participants

Demographic Characteristics of Private Lawyer Survey Participants	N	%
Area Agencies on Aging		
Area III	14	48.1
Non-Area III	13	51.9
Percent of clients 60+ years of age?		
Less than 5%	1	4.2
5-30%	10	41.7
31-60%	5	20.8
61% or greater	8	33.3
Financing Legal Services		
Client could not afford		
Rarely or Never	3	12.5
Infrequently	11	45.8
Frequently	10	41.7
Pro Bono Service		
Rarely or Never	6	25.0
Infrequently	15	62.5
Frequently	3	12.5
Substantially Reduced Rate (50% ordinary rate)		
Rarely or Never	9	37.5
Infrequently	10	41.7
Frequently	5	20.8
Rating Capacity to Meet Legal Needs of Older Adults (60+)		
Poor	4	16.7
Fair	13	54.2

Demographic Characteristics of Private Lawyer Survey Participants	N	%
Good	5	20.8
Very Good	2	8.3

N=24 (some variables might have missing cases)

Participants were asked to identify the frequency with which they referred older adults to a variety of entities for assistance (see Table 20). The resources to which respondents most frequently referred individuals were ILAS (30.4%), another paid private attorney (20.8%), and CAO (20.8%). Most attorneys rarely, if ever, referred individuals to other self-help resources²² (75.0%) or law school clinics (70.8%).

Table 20. Frequency of Referral Types

	Rarely/Never		Infrequently		Frequently	
	N	%	N	%	N	%
Private Attorney (pro bono)	12	50.0	11	45.8	1	4.2
Private Attorney (for pay)	3	12.5	16	59.3	5	20.8
Idaho Legal Aid	4	17.4	12	52.2	7	30.4
Idaho Volunteer Lawyer Program	9	37.5	11	45.8	4	16.7
Court Assistance Office	5	20.8	14	58.3	5	20.8
Other Self-Help Resources	6	75.0	1	12.5	1	12.5
Non-Legal Support Services	6	33.3	10	55.6	2	11.1
Law School Clinics	17	70.8	7	29.2	0	0.0
Senior Legal Hotline	14	58.3	8	33.3	2	8.3

N=24 (some variables might have missing cases)

Table 21 summarizes the basic representation of the types of legal issues identified through either a contact with an older client or the actual representation of an older client (i.e., accepting a case). More than 60% of surveyed lawyers suggested that they are contacted frequently about estate planning (87.5%), advanced directives (81.5%), adult guardianship (66.7%) and adult conservatorship (66.7%). In terms of actually representing older clients, a similar pattern of frequency is noted: estate planning (74.1%), advanced directives (81.5%), adult guardianship (62.5%) and adult conservatorship (62.5%).

Table 21. Frequency of Lawyers Contacted and Represented on Different Legal Issues

Frequency of Lawyers Contacted and Represented on Different Legal Issues	Rarely/Never		Infrequently		Frequently	
	N	%	N	%	N	%
Estate Planning						
Contacted	1	4.2	2	8.3	21	87.5
Represented	2	8.3	2	8.3	20	74.1
Advanced Directive						

²² 16 respondents left “other self-help resources” for the referral type question blank. Leaving this question blank could mean the respondent is unaware, rarely/never refers in this way, or forgot to select the appropriate response.

Contacted	1	4.2	1	4.2	22	81.5
Represented	1	4.2	2	8.3	21	87.5
Family Law						
Contacted	7	30.4	8	34.8	8	34.8
Represented	12	50.0	4	16.7	8	33.3
Housing						
Contacted	14	51.9	9	33.3	4	14.8
Represented	16	66.7	8	33.3	0	0.0
Long Term Care						
Contacted	5	22.7	8	36.4	9	33.3
Represented	6	25.0	9	37.5	9	37.5
Consumer						
Contacted	15	65.2	8	34.8	0	0.0
Represented	16	66.7	8	33.3	0	0.0
Abuse						
Contacted	16	72.7	5	22.7	1	4.5
Represented	17	70.8	6	25.0	1	4.2
Guardianship						
Contacted	3	12.5	5	20.8	16	66.7
Represented	5	20.8	4	16.7	15	62.5
Government Benefits						
Contacted	5	21.7	8	34.8	10	43.5
Represented	7	29.2	8	33.3	9	37.5
Conservatorship						
Contacted	5	20.8	3	12.5	16	66.7
Represented	7	29.2	2	8.3	15	62.5

N=24 (some variables might have missing cases)

It is relevant and important to examine the breakdown of these same data into Area III (the most urban geographical area in the state) and all other areas.²³ Given the expanse of the tables, only the highest frequency legal issues were included. A complete analysis of all legal issues can be found in Appendix C. In Table 22, it is noted that for estate planning and advanced directives, there is no differences in reporting how frequently attorney respondents were either contacted or represented clients in Area III and other Areas. However, with guardianships and conservatorships, a difference was noted. Only half of the attorneys (50%) in Area III reported that they were frequently contacted by older adults regarding adult guardianship compared to 80% of attorneys in all other Areas. Similarly, half of the attorneys (50%) in Area III reported that they frequently represented older adults in adult guardianship cases, whereas 90% of attorneys in other Areas represented older adults in adult guardianship cases. This same result is found in reports about conservatorship cases.

²³ Because we obtained a low response rate, we were not able to identify representation of each geographical area separated. So, the most appropriate comparison was between Area III and other Areas combined.

Additionally, although there is not much difference in the respondents from Area III reporting frequently being contacted about government benefits (38.5%) and attorneys outside of Area III (50.0%), there does seem to be a marked difference in frequently representing older clients regarding government benefits between attorneys outside of Area III (50.0%) and attorneys in Area III (28.6%). Contrarily, only 20% of attorneys outside of Area III reported not representing (or rarely representing) older clients in government benefits issues compared to over one-third of attorneys in Area III (35.7%).

Table 22. Representation of Legal Issues by Geographical Area

Representation of Legal Issues by Geographical Area	Rarely/Never		Infrequently		Frequently	
	N	%	N	%	N	%
Estate Planning						
Contacted						
AAA III	1	7.1	1	7.1	12	85.7
Not AAA III	0	0.0	1	10.0	9	90.0
Represented						
AAA III	2	14.3	0	0.0	12	85.7
Not AAA III	0	0.0	2	20.0	8	80.0
Advanced Directive						
Contacted						
AAA III	1	7.1	1	7.1	12	85.7
Not AAA III	0	0.0	0	0.0	10	100.0
Represented						
AAA III	1	7.1	1	7.1	12	85.7
Not AAA III	0	0.0	1	10.0	9	90.0
Guardianship						
Contacted						
AAA III	3	21.4	4	28.6	7	50.0
Not AAA III	0	0.0	1	10.0	9	90.0
Represented						
AAA III	4	28.6	3	21.4	7	50.0
Not AAA III	1	10.0	1	10.0	8	80.0
Government Benefits						
Contacted						
AAA III	3	23.1	5	38.5	5	38.5
Not AAA III	2	20.0	3	30.0	5	50.0
Represented						
AAA III	5	35.7	5	35.7	4	28.6
Not AAA III	2	20.0	3	30.0	5	50.0
Conservatorship						
Contacted						
AAA III	4	28.6	3	21.4	7	50.0
Not AAA III	1	10.0	0	0.0	9	90.0
Represented						
AAA III	5	35.7	2	14.3	7	50.0
Not AAA III	2	20.0	0	0.0	8	80.0

N=24 (some variables might have missing cases)

Respondents were also asked about potential barriers in providing legal services to older adults. Table 23 summarizes the basic frequencies of responses. As outlined in this table, a larger percentage of lawyers (40.9%) believed that the client’s inability to pay was a significant barrier. Similarly, approximately one-third (31.8%) of the lawyers reported that the expenditure of the human capital to work on cases involving older adults was also a significant barrier. The attorney’s lack of interest, conflict of interest, and difficulty in communicating with the client did not seem to be a significant barrier. In fact, the majority of respondents reported that these factors were not barriers.

Table 23. Frequency of Types of Barriers in Providing Legal Services to Older adults

Frequency of Types of Barriers in Providing Legal Services to Older adults	Not a Barrier		Somewhat a Barrier		A Significant Barrier	
	N	%	N	%	N	%
Insufficient Time	5	22.7	14	63.6	3	13.6
Too Much Human Capital	6	27.3	9	40.9	7	31.8
Client’s Inability to Pay	4	18.2	9	40.9	9	40.9
Lack of Experience	9	40.9	11	50.0	2	9.1
Lack of Interest	16	59.3	6	22.2	0	0.0
Difficulty in Locating/Screening Client	11	50.0	9	40.9	2	9.1
Conflict of Interest	17	77.3	5	22.7	0	0.0
Difficulty in Communicating with Client	19	86.4	3	13.6	0	0.0
Difficulty Navigating Agencies	11	50.0	8	29.6	3	13.6

N=24 (some variables might have missing cases)

Given the makeup of the residents in the state of Idaho, it is relevant to address the cross-section between different geographic areas (Area III or not) and their responses to barriers in providing legal services to older adults to examine potential differences of these responses of attorneys practicing in different areas of the state. Table 24 summarizes these findings for the types of barriers with noticeable differences between attorneys practicing in Area III and attorneys outside of Area III. A complete analysis of all types of barriers can be found in Appendix D.

As indicated in the table there is not much of a difference in reporting of barriers between attorneys practicing in Area III and attorneys practicing outside of Area III. However, the four types of barriers listed do present a small difference. For example, almost 42% of those attorneys practicing in Area III suggested that human capital was a significant barrier to providing services to older adults compared to only 20% of attorneys outside of Area III. Similarly, half of attorneys in Area III suggested that the client’s inability to pay was a significant barrier compared to only 30% of those outside of Area III.

Although less significant than human capital and inability to pay, there is a marked difference between attorneys in Area III and outside of Area III in reporting about the lack of experience as a barrier in providing legal services to older adults. Less than 20% of attorneys in Area III reported that a lack of experience was a significant barrier to providing legal services yet none of the attorneys outside of Area III reported lack of experience as a significant barrier. On the other hand, 50% of attorneys practicing in Area III reported that lack of experience was not a barrier at all compared to only 30% of attorneys outside of Area III.

Finally, 20% of attorneys outside of Area III found that difficulty navigating agencies was a significant barrier to providing services to older adults compared to only 8% of attorneys in Area III.

However, 70% of attorneys outside of Area III report that navigating agencies is not a barrier at all compared to 33% of attorneys in Area III.

Table 24 Types of Barriers in Providing Legal Services by Geographical Area

Types of Barriers in Providing Legal Services by Geographical Area	Not a Barrier		Somewhat a Barrier		A Significant Barrier	
	N	%	N	%	N	%
Too Much Human Capital						
AAA III	4	33.3	3	25.0	5	41.7
Not AAA III	2	20.0	6	60.0	2	20.0
Client's Inability to Pay						
AAA III	1	8.3	5	41.7	6	50.0
Not AAA III	3	30.0	4	40.0	3	30.0
Lack of Experience						
AAA III	6	50.0	4	33.3	2	16.7
Not AAA III	3	30.0	7	70.0	0	0.0
Difficulty Navigating Agencies						
AAA III	4	33.3	7	58.3	1	8.3
Not AAA III	7	70.0	1	10.0	2	20.0

N=24 (some variables might have missing cases)

The final question addressed in the lawyer survey was the level of perceived benefit in receiving additional information and/or training on particular legal issues. Table 25 outlines these findings. The most frequently identified areas of additional information and training were government benefits (45.5%) and long term care (39.1%). Over 20% of the attorneys reported, that more information and training about guardianship and conservatorship would be highly beneficial. Less interest was expressed in information and training about housing (56.5%), family law (42.9%) and consumer problems (39.1%).

Table 25. Level of Benefit in Receiving Additional Information and/or Training in Legal Areas

Level of Benefit in Additional Information and/or Training in Legal Areas	Not Beneficial		Somewhat Beneficial		Highly Beneficial	
	N	%	N	%	N	%
Estate Planning	7	30.4	13	56.5	3	13.0
Advanced Directive	7	30.4	12	52.2	4	17.4
Family Law	9	42.9	10	47.6	2	9.5
Housing	13	56.5	9	39.1	1	4.3
Long Term Care	3	13.0	11	47.8	9	39.1
Consumer	9	39.1	11	47.8	3	13.0
Abuse	6	26.1	15	65.2	2	8.7
Guardianship	4	17.4	14	60.9	5	21.7
Government Benefits	2	9.1	10	45.5	10	45.5
Conservatorship	5	21.7	13	56.5	5	21.7

N=24 (some variables might have missing cases)

Table 26 summarizes notable differences in attorneys’ reports of the benefit of receiving additional information and/or training on particular legal issues by geographical area (Area III or not). The largest differences relate to attorneys’ responses about long-term care and government benefits, with over two-thirds of attorneys outside Area III stating additional training and resources on these topics would be highly beneficial.

Table 26. Benefit in Receiving Additional Information/ Training in Legal Areas by Geographical Area

Benefit in Receiving Information/ Training in Legal Areas by Geographical Area	Not Beneficial		Somewhat Beneficial		Highly Beneficial	
	N	%	N	%	N	%
Long Term Care						
AAA III	2	15.4	9	69.2	2	15.4
Not AAA III	1	10.0	2	20.0	7	70.0
Guardianship						
AAA III	3	23.1	8	61.5	2	15.4
Not AAA III	1	10.0	6	60.0	3	30.0
Government Benefits						
AAA III	2	15.4	7	53.8	4	30.8
Not AAA III	0	0.0	3	33.3	6	66.7
Conservatorship						
AAA III	3	23.1	8	61.5	2	15.4
Not AAA III	2	20.0	5	50.0	3	30.0

N=24 (some variables might have missing cases)

Although a connection between the geographical area in which the attorney practices and their rating of how well Idaho does in terms of meeting the legal needs for low-income older adults would have been helpful, this relationship did not provide any noticeable differences between the different areas.

Discussion

Overall, the results of this survey suggest attorneys in private practice may play an important role in providing legal services for some low-income older adults. Again, however, given the low response rate and small sample size, the results of this survey should be taken with caution in terms of drawing general conclusions. The relatively low perception of how well the current system meets the needs of low income older adults (71% rating it “Fair” or “Poor”) lends support to the need for further resources identified elsewhere. Additionally, these results also highlight variation between Area III (Treasure Valley) and other areas of the state and the barrier that paying for services creates for private practice attorneys. Below we discuss how these results relate to priority needs identified through this capacity assessment.

Gaps in Guardianship Related Services

A high proportion of attorneys responding to this survey reported being contacted (66.7%) and subsequently representing (62.5%) individuals on adult guardianships and conservatorships. This percentage of responding attorneys frequently involved in guardianship actions is more pronounced once we factor in different geographical areas, with 90% of responding attorneys outside of Area III being frequently contacted and 80% of these attorneys frequently representing individuals in adult guardianship and conservatorship actions.

However, only approximately 20% of all attorneys identified that additional information and/or training related to guardianships and conservatorships would be highly beneficial (compared to 45.5% for government benefits). A slightly higher proportion of responding attorneys outside of Area III (30%) identified additional information and/or training on guardianships and conservatorships as highly beneficial compared to only 15% of attorneys in Area III. Accordingly, it may be the resource and time-intensive nature of representing clients in guardianship actions that serve as a greater barrier than lack of experience or content knowledge. However, these results differ from comments by Advisory Committee members indicating lack of understanding related to the guardianship process by some attorneys. Given these differing findings and the small survey sample size, these results should be taken with caution.

Issues with Medicaid and Government Benefits

Responding attorneys similarly reported both being frequently contacted by and frequently representing older adults in matters involving government benefits, such as Medicaid. The highest percentage of attorneys reported that receiving more information and/or training in the area of government benefits would be highly beneficial (45.5%). Moreover, 39.1% of all responding attorneys and 70% of attorneys outside of Area III also stated that additional training related to LTC would be highly beneficial.

This need for assistance and training with Medicaid LTC matters reflects findings from other aspects of this capacity assessment. Specifically, one Advisory Committee member mentioned concern that attorneys unfamiliar with Medicaid LTC requirements may provide bad advice in terms of gifting and disposal of property. And as noted above, over 20% of all ILAS cases for individuals age 60+ during the last 10 years involved Medicaid/Medicare—the highest proportion of any ILAS case type. Similarly, as discussed further below, the survey of seniors identified “government benefits” and “paying for long-term care” as being among the top four legal concerns for Idaho seniors. And planning to qualify for Medicaid LTC is increasingly part of the number one legal concern for seniors identified in this survey—estate planning.

Need for Timely Access to Appropriate Level of Service

The findings of this survey of lawyers in private practice further suggest the need for improvements how low-income individuals can access timely legal services and show the limits of private practice attorneys in potentially addressing this gap. Over 70% of all responding attorneys rated Idaho as either poor (16.7%) or fair (54.2%) in meeting the needs of low-income older adults. Unlike with many other measures, this rating did not noticeably differ between attorneys who were practicing in Area III or in other areas.

Although private practice attorneys view the current system as not meeting the needs of older adults, the results also illustrate the limits of private practice attorneys in meeting current gaps without other resources or support. Specifically, over 40% of the attorneys reported that the client not being able to pay was a significant barrier to providing legal services to low-income older adults. Additionally, 30% of responding attorneys reported the investment of human capital was a significant barrier. By comparison, only a small percentage of respondents reported that insufficient time (13%) or inexperience (9%) were significant barriers and none viewed lack of interest as a significant barriers.

Even where private attorneys are unable to provide services to low-income older adults; it is unclear to what extent they can provide helpful referrals to other resources. Although 30% of respondents reported referring individuals to ILAS “frequently,” for all other resources listed in the survey fewer than 21% reported frequently referring individuals. Only 11% of respondents reported frequently referring individuals to non-legal support services such as the AAAs and only 8% of respondents frequently

referred individuals to the Senior Legal Hotline. Given the relatively infrequent referrals to any available resources and the barrier created by potential clients' inability to pay, there may be an opportunity to better utilize private practice attorneys as an outreach and education tool.

Caveats and Limitations of Attorney Survey Findings

There are several limitations and caveats to the findings from our lawyer's surveys. First is the low response rate and concern regarding the representativeness of the sample. Specifically, only 24 of the 248 surveys sent via email were completed and returned. Of these respondents, 14 are located in Area III. Accordingly, conclusions drawn regarding areas of the state outside of Area III are based on only 10 surveys. Although the response rate is low, by defining a broader sampling frame we were able to include attorneys who represent older adults as part of a more general law practice. Specifically, only 33% of respondents reported that 61% or more of their clients were 60 years or older, and 45% respondents reported that fewer than 30% of their clients were age 60 years or older. Despite this variation in characteristics of respondents, the survey sample size is small enough to raise questions about how representative the results are of the broader population.

Legal Needs Assessment Survey of Older Adults

This section of the ICOA Legal Capacity Assessment Report describes findings from a statewide survey of adults age 60 and older residing in Idaho. Additional analyses of respondents reporting incomes of less than \$20,000 and comparison of findings to those from a similar assessment conducted in 2008 are also included.

Methodology

The survey developed for this project was modeled after the questionnaire used in 2008. It was designed to collect demographic characteristics and information about legal services received, current legal needs, and consumer, housing, and personal/family related legal problems. All data collection procedures were approved by the Boise State University Institutional Review Board, approval # 680-SB14-044, and the survey was distributed in April and May, 2014.

A mixed method survey distribution strategy was used to reach the target population. Methods included the distribution of paper copies or an electronic link to the survey during two Senior Scam Jam Elder Fraud and Financial Abuse events and through a mail survey. Participants at the Scam Jams were primarily older adults residing in northern and south central Idaho. The mail survey sample included 2,000 individuals 60 and older randomly selected from each of the six (6) AAAs. The selection of participants and production of mailing lists were managed by AccuData Integrated Marketing.

The findings from the survey have been organized into sections. First, the report summarizes the return rate and the demographic information about the participants. This section also includes a description of the respondents reporting incomes of less than \$20,000 per year as a means of describing those respondents in greatest economic need. Next, participant awareness of organizations that help people with legal problems, preferences for accessing information, and the types of legal services received, legal problems experienced, and legal issues participants need help have been reported. Specific consumer and personal experiences including consumer fraud, improper use of assets, contracts, telemarketing, sales people, credit cards, loans, bankruptcy, housing issues, and abuse, are then reported. Differences in survey responses from those with greatest economic need (incomes of less than \$20,000) have been reported for each problem/experience. Finally, a comparison of the findings to those of the 2008 Idaho Legal Needs survey was conducted.

Response Rates and Sample and Respondent Characteristics

Of the 2,000 surveys distributed by mail, 476 or 24 % were returned with the survey form completed in total or in part. There were also an additional 72 surveys completed during the Senior Scam Jams in AAA Regions II and IV for a total sample of 548.

Some variability was found in the representativeness of the sample of residents 60 and older. For example, respondents of the survey were very similar to the male/female characteristics of the Idaho population. In the 2013 U.S. Census, 47.8% of the population age 60 and older in Idaho was male and 52.2% was female whereas the survey respondents were 44% male and 55.5% female.

A significant variation was found in the population distribution of older adults in Idaho and the survey respondents with residents living in primarily rural areas over represented. For example, the response rates from AAA Regions 2, 4, 5, and 6 (see Figure 1) were greater than the distribution of older adults in those regions, see Table 27. This over representation was likely due to the distribution of surveys at the two Scam Jams and the use of a disproportional stratified sampling strategy in which the same number of surveys was distributed in each AAA region regardless of size of population. This strategy was used to assure adequate representation from all regions with a limited distribution capacity, i.e., 2000 surveys.

Table 27. Demographic Information of Sample Population

	Idaho Population Distribution N = 306,721	Sample Distribution N = 548
	%	%
Male 60+	47.8	44.2
Female 60 +	52.2	55.5
AAA Region		
I	17.4	13.1
II*	8.5	18.5
III	40.6	15.3
IV*	12.5	25.9
V	10.0	13.1
VI	11.1	13.9

* Data collection occurred at Senior Scam Jam held in region.

As a snapshot of the participant population, over 90% were white and approximately 50% were between the ages of 60-70, married, and retired with a household income of more than \$30,000 per year. Table 28 further illustrates the demographic characteristics of the survey respondents.

Table 28. Demographic Characteristics of Survey Respondents

Demographic Characteristics of Survey Respondents	N	%
Gender		
Male	242	44.2
Female	304	55.5
Age		
60-70	275	50.2
71-80	168	30.7
81-90	90	16.4
91-100	14	2.6
Race		
White	512	93.4
Non-White	36	6.6
Marital Status		
Married	309	56.4
Not Married	13	2.4
Never Married	11	2
Divorced	70	12.8
Separated	2	0.4
Widowed	139	25.4
Employment Status		
Full-time	88	16.1
Part-time	65	11.9
Volunteer	74	13.5
Not employed or volunteering	313	57.1
Household income		
Less than \$10,000	35	6.4
\$10,000 to under \$20,000	79	14.4
\$20,000 to under \$30,000	88	16.1
More than \$30,000	276	50.4
Not sure	18	3.3

Over 70% of the respondents live in a home they own, drive a car, and access the internet/email from their home on a daily basis (Table 29).

Table 29. Household Characteristics and Access to Transportation and Internet

Household Characteristics and Access to Transportation and Internet	N	%
Do you live in a:		
Place you own	463	84.5
Rental	52	9.5
Another person's home	19	3.5
Assisted living facility or Nursing home	4	0.8
Other	8	1.5
Do you live: (Check all that apply)		
with spouse	324	59.1
Alone	185	33.8
with children	34	6.2
with extended family or in-laws	11	2
with friend/s	5	0.9
with paid caregiver	3	0.5
Other	8	1.5
How many people are in your household?		
1	183	33.4
2	306	55.8
3	28	5.1
4 or more	25	4.6
Do you drive?		
No	42	7.7
Yes	477	87
Yes, in a limited area and/or time of day	26	4.7
Do you access the Internet/Email?		
Yes	395	73.6
No	149	27.2
If yes, how often do you access the internet?		
Daily	303	76.7
Weekly	70	17.7
Monthly	20	5.6
Other	2	0.5
If yes, where do you access the internet? (check all that apply)		
Home	378	95.7
Work	85	21.5
Friend or Family member's house	23	5.8
Library	19	4.8
Senior Center	3	0.7
Other	30	7.6

The demographic characteristics of respondents reporting incomes of less than \$20,000 per year were different from the population as a whole on several key factors. For example, respondents in this low income category were older (65% over the age of 71), female (75%), and widowed or divorced (73%). Table 30 further illustrates the demographic characteristics of this subset of the survey population.

Table 30. Demographic Characteristics of Survey Respondents with Incomes Below \$20,000

Characteristics of Survey Respondents Incomes Below \$20,000	N	%
Gender		
Male	28	24.6
Female	86	75.4
Age		
60-70	35	30.7
71-80	45	39.5
81-90	29	25.4
91-100	5	4.4
Race		
White	103	90.4
Non-White	36	7.9
Marital Status		
Married	23	20.2
Not Married	3	2.6
Never Married	3	2.6
Divorced	32	28.1
Separated	1	0.9
Widowed	51	44.7
Employment Status		
Full-time	4	3.5
Part-time	8	7
Volunteer	12	10.5
Not employed or volunteering	89	78.1

N = 114

Only half (n=57) of this subset of the sample reported having access the internet/email as compared to 73% of the survey population as a whole. No differences were found regarding home ownership or ability to drive a car (Table 31).

Table 31. Household Characteristics and Access to Transportation and Internet with Incomes of Less than \$20,000

Household Characteristics and Access to Transportation and Internet with Incomes of Less than \$20,000	N	%
Do you live in a:		
Place you own	73	64
Rental	28	24.6
Another person's home	9	7.9
Assisted living facility/Nursing home	1	0.9
Other	2	1.8
Do you live: (Check all that apply)		
with spouse	27	23.7
Alone	73	64
with children	6	5.3
with extended family or in-laws	4	3.5
with friend/s	2	1.8
with paid caregiver	2	1.8
How many people are in your household?		
1	71	62.3
2	33	28.9
3	3	2.6
4 or more	5	4.4
Do you drive?		
No	22	19.3
Yes	83	72.8
Yes, in a limited area and/or time of day	7	6.1
Do you access the Internet/Email?		
Yes	57	50
No	54	47.4
If yes, how often do you access the internet?		
Daily	37	32.5
Weekly	13	11.4
Monthly	4	3.5
Other	1	0.9
If yes, where do you access the internet? (check all that apply)		
Home	378	95.7
Work	85	21.5
Friend or Family member's house	23	5.8
Library	19	4.8
Senior Center	3	0.7
Other	30	7.6

N = 114

Awareness of legal assistance and preferences for accessing information

Respondents were asked to identify the organizations they were aware of that provide legal assistance. Almost half (47.6%) of the respondents had heard of Idaho Legal Aid Services with 41.8% indicating they had not heard of any of the organizations listed (Table 32). Further analysis of those who were not aware of the organizations revealed that almost half (48.7%) were in the 60-70 age range. No significant difference in awareness of legal assistance was found between the low income respondents and all others.

Table 32. Awareness of Organizations that Assist People with Legal Problems

Awareness of Organizations that Assist People with Legal Problems	N	%
Have you heard of the following organizations that help people with legal problems? (Check all that apply)		
Idaho Legal Aid Services	261	47.6
Idaho Adult Protection Services	157	28.6
Ombudsman with local Area Agency on Aging	100	18.2
Idaho Volunteer Lawyers Program	48	8.8
University-based Legal Assistance Clinics.	36	6.6
I have not heard of these organizations	229	41.8

A key component of building awareness is identifying how to get information to a target audience. The most frequently recommended route of sharing information about legal services was through the newspaper with email communication selected as the next most frequent option (Table 33). While participants were asked to identify the “best” strategy, many selected more than one approach which may indicate the need for multiple marketing venues.

Table 33. Recommended Strategies for Notifying Seniors of Available Legal Services

Recommended Strategies for Notifying Seniors of Available Legal Services	N	%
What is the best way to let a senior know about an available legal service?		
Newspaper advertisement	162	29.6
E-Mail	59	10.8
Senior Center	45	8.2
Mail	36	6.6
TV	19	3.5
Radio advertisement	13	2.4
Not sure	150	27.4
Other	20	3.6

Respondents in the at-risk low income subgroup were less likely to identify email as a good communication strategy. These participants identified newspapers (33%) and senior centers (11%) as the best ways to let seniors know of legal services.

Legal services received and resolution of legal issue

Respondents were asked if they had received legal services in the last 10 years and if yes, what those services were and whether the issue was resolved. Just less than one-third (31.6%) of the respondents reported receiving services with most indicating they had received representation from a private attorney who charged them. The majority (61%) of those receiving services reported that the assistance received resolved the legal issue. Only 23.7% of respondents had received legal support from venues providing free or reduced-cost services (Table 34).

Fewer participants in the low income population had received legal services (22.8%) with most also receiving representation from a private attorney who charged them. Similar levels of satisfaction with resolution of the issue were expressed.

Table 34. Services Received in Past 10 Years and Outcome

Services Received in Past 10 Years and Outcome	N	%
Have you received legal services in the last 10 years?		
Yes	173	31.6
No	372	67.9
What legal services have you received? (Check all that apply)		
Representation from a private attorney who charged me	131	76
Representation from an attorney who provided services for free	9	5.2
Advice from Idaho Legal Aid	4	2.3
Access to forms provided by Idaho Legal Aid/Court Assistance Office	3	1.7
Assistance from a free legal clinic I attended	2	1.2
Other	23	13.3
Did the legal assistance you receive:		
fully resolve your legal issues	105	61
mostly resolve your legal issues	18	10.4
partially resolve your legal issues	16	9.2
did not adequately resolve your legal issues	8	4.6
Other	12	6.9

Consumer problems

Participants were asked to respond to a series of questions about issues related to government benefits, consumer fraud, assets, contracts, telemarketing, sales people, credit cards, loans, and bankruptcy. In general, few respondents identified having experienced consumer problems. The most frequently identified complaint was related to telemarketers with just over half (53.5%) of respondents identifying this as a concern. The most common complaint associated with telemarketers was repeated calls after they had been told to stop. The next most frequently identified problem was related to consumer fraud (18.8%) with credit cards as the most common concern. Tables 35, 36, 37, 38, 39, and 40 further illustrate the consumer problems reported by the survey respondents.

Table 35. Consumer Problems with Telemarketers and Sales People

Consumer Problems with Telemarketers and Sales People	N	%
Have you had any problems with telemarketers as a senior?		
Yes	293	53.5
No	247	45.1
What problems have you had with telemarketers?		
Kept calling after they had been told not to call back	247	84.3
High pressure tactics	130	44.4
Rude behavior	107	36.5
Deceitful about what they are offering or sending	83	28.3
Other	4	1.4
Have you had any problems with sales people as a senior?		
Yes	85	15.5
No	457	83.4
What problems have you had with sales people?		
Trying to sell you items that you don't want	58	68.2
Aggressive door-to-door sales persons	28	32.9
Over-charging	15	17.6
Item delivered different than what was promised	10	11.8
Failing to deliver your purchase	7	8.2
Won't accept return as provided in contract	7	8.2
Threatening to repossess a product	1	1.2
Other	11	12.9

Table 36. Consumer Problems with Fraud and Principal Area Where Fraud Occurred

Consumer Problems with Fraud and Principal Area Where Fraud Occurred	N	%
Has there ever been a time where you felt like you were the victim of consumer fraud or had been swindled since you've been a senior?		
Yes	103	18.8
No	409	74.6
Not sure	26	4.7
If yes or not sure, in what area(s) were you the victim of consumer fraud or swindle?		
Credit card	35	27.1
Identity theft	22	17.1
Internet or mail order purchases	17	13.2
Utilities (power, gas, telephone, television, cable, internet)	13	10.1
Travel/vacation	13	10.1
Retail product or product warranty	12	9.3
Auto repair and/or purchase	12	9.3
Home repair and maintenance	11	8.5
Charities/donations	10	7.8
Insurance products/services	9	7.0
Investments	8	6.2
Home financing/mortgage	7	5.4
Security/Alarm service	5	3.9
Lottery	2	1.6
Other	29	22.5
How did the company or individual contact you?		
Telephone	57	44.2
Mail	27	20.9
Internet or e-mail	24	18.6
Door-to-door	8	6.2
Product/service advertised on television or radio	8	6.2
Magazine, newspaper, or flyer	7	5.4
Recommended/referred	7	5.4
Is a friend or acquaintance	4	3.1
Is a relative	2	1.6
Not sure	10	7.8
Other	27	20.9

Table 37. Consumer Problems with Credit Cards, Loans, and Bankruptcy

Consumer Problems with Credit Cards, Loans, and Bankruptcy	N	%
Have you had any problems with a credit card as a senior?		
Yes	78	14.2
No	467	85.2
What problems have you had with a credit card?		
Incorrect billing charges	26	33.3
Extreme interest rates	23	29.5
Improper late fees	19	24.4
Can't pay credit card bill	16	20.5
Significant increase in monthly minimum payment	14	17.9
Other	5	6.4
Have you gotten a loan after you became a senior only to find out later that it had excessive fees or a high interest rate?		
Yes	18	3.3
No	518	94.5
Have you filed for bankruptcy since you became a senior?		
Yes	14	2.6
No	494	90.1

Table 38. Consumer Problem with Improper Use of Assets

Consumer Problem with Improper Use of Assets	N	%
Has anyone improperly used your money, property, or assets (such as stolen your money, made purchases without your permission, or pressured you to give them property, etc.)?		
Yes	57	10.4
No	477	87
Not sure	6	1.1
If yes, was the person a family member?		
Yes	15	24
No	45	71.4

Table 39. Consumer Problems with Government Benefits

Consumer Problems with Government Benefits	N	%
Have you had problems with any government benefits (e.g. Social Security, Medicare, Medicaid, veteran's benefits, etc.) you receive since you've been a senior?		
Yes	49	8.9
No	489	89.2
If yes, what problems have you had with government benefits:		
benefit denied or cut unfairly	21	43
difficulty understanding eligibility requirements	6	12.2
difficulty in completing application materials	6	12.2
agency was uncooperative	4	8.2
being discouraged from applying	2	0.4
lack of information about how to appeal a decision	2	0.4
not applicable, I don't receive government benefits	2	0.4
Other	6	1.1

Table 40. Consumer Problem with Contracts

Consumer Problem with Contracts	N	%
Have you entered into a contract since you have been a senior?		
Yes	235	42.9
No	302	55.1
Did you have any problems with the contract?		
I have not had problems	167	71.1
Feeling pressure to sign immediately	22	9.4
Confusing contract terms	16	6.8
Other person didn't follow contract	16	6.8
Not being able to get a refund	13	5.5
Signed without understanding	12	5.1
Co-signed to help someone and they did not make their payments	9	3.8
Getting out of a contract	9	3.8
Needing advice before signing and didn't get it	7	3.0
Felt family pressure to co-sign	3	1.3
Unable to read it	1	0.4
Not sure	6	2.6
Other	9	3.8

A review of consumer problems reported by respondents with annual incomes below \$20,000 revealed similar patterns of complaints although the following consumer issues were more frequently identified by this population: telemarketer concerns, 62.3%; consumer fraud (27.2); government benefits (10.5%); improper use of assets (13.2%); sales people concerns (21.1%).

Housing Problems

Potential housing problems were explored from the perspective of participants who were home owners (n = 463) and renters (n= 52). Very few housing related complaints were identified. For example, 92 % of respondents in either group (home-owner or renter) had not had any problems with ownership or a landlord (Table 15). As indicated previously, more respondents in the low income group were renters although no differences in concerns were reported. Those reporting incomes below \$20,000 who owned their own home reported a higher frequency of problems related to financing and maintenance/repairs.

Table 41. Housing Problems Related to Renting or Home Ownership

Housing Problems Related to Renting or Home Ownership	N	%
Have you had any problems with a landlord?		
No	76	92
Yes	5	6
If yes, what problems have you had with a landlord?		
Landlord wouldn't make repairs	5	6.0
Improperly kept security deposit	3	3.6
Harassed by landlord	2	2.4
Dispute over lease terms	1	1.2
Threatened eviction or evicted	1	1.2
Landlord trespassed on property	1	1.2
Landlord wrongly claimed lack of timely notice of intent to move out	1	1.2
Other	0	0
As a home owner have you had any problems associated with:		
I have not had any problems	426	92.0
Foreclosure on your home	8	1.7
A reverse mortgage	5	1.1
Other	13	2.8

History of Abuse and Legal Needs

The final section of the survey was designed to gather information about experiences of abuse and needed legal advice and services. Emotional abuse as the most commonly identified type of abuse in the overall survey population and low income subgroup. Of those who reported a history of abuse 76% indicated they had not sought help to address the situation. Table 42 further illustrates the survey respondent's experiences with abuse and reporting of abuse.

Table 42. History of Abuse and Reporting of Abuse

History of Abuse and Reporting of Abuse	N	%
Have you even been: (Check all that apply)		
Physically abused	35	6.4
Sexually abused	24	4.4
Emotionally abused	57	10.4
Neglected	10	1.8
Financially abused	24	4.4
I have not been abused	442	80.7
If you have been abused, did you get help? (n = 82)		
Yes	20	24.4
No	62	75.6
If you have been abused, why did you not get help?		
Didn't know who to talk to	19	30.6
Family issue	11	17.7
Got divorced	5	8.1
Financial barrier	3	4.8

Using a forced-choice list, respondents were asked to identify the three legal issues that concerned them the most. The five (5) most frequently identified concerns were related to estate planning, end of life planning, understanding government benefits, paying for long-term care, and health insurance. (Table 43).

Table 43. Legal Issues of Concern

Legal Issues of Concern	N	%
Select 3 legal issues that concern you the most:		
Estate planning (such as wills and trusts)	193	35.2
Establishing a living will (end of life planning)	151	27.6
Government benefits (like Medicare, Medicaid, SSI)	148	27.0
Paying for long-term care (including Medicare)	148	27.0
Health insurance problems	118	21.5
Consumer problems (scams, exploitation, identity theft)	98	17.9
Health care power of attorney	82	15.0
Financial power of attorney	64	11.7
Issues related to grandchildren	26	4.7
Housing issues (evictions, security deposits)	8	1.5
Abuse	8	1.5
Family matters (such as divorce and custody)	4	0.7
Not sure	48	8.6
I don't have any legal concerns at this time	12	2.2
Other	12	2.2

Finally, participants were asked to list three services that would be most useful to seniors. Many of the responses reflected the concerns identified in the previous question. The most commonly identified services were: 1) free or low cost assistance with wills and trusts, living wills, and general legal issues; 2) health insurance and/or government benefits; and 3) scams such as identity theft.

Comparison of Findings to the 2008 Idaho Legal Needs Survey

A statewide assessment of the needs of seniors over the age of 60 was conducted in 2008. The participants (n=546) for this study were drawn from low-income seniors who had been served by the Idaho Legal Aid Services in the previous year (2006-2007). While the participant selection strategy used for the current assessment was quite different, i.e., random sample of individuals over the age of 60 residing in Idaho, many of the demographic characteristics of the respondents, with the exception of income level were similar. One striking difference was the reported use of internet. In 2008, 36% had adopted the use of Internet and in 2014, 74% reported accessing the Internet/Email from their own home on a daily basis. Another shift was the use of Senior Centers as a means of notifying seniors of available legal services with 38% recommending this option in 2008 and only 8% in 2014. Regardless of timeframe, participants identified the use of newspapers as the best way to let seniors know about legal resources.

In general, fewer consumer and housing problems were reported by respondents in the 2014 assessment. The most frequently identified consumer complaint identified in both assessments was “problems with telemarketers” with repetitious calls being the most commonly identified issue. A consistent pattern of legal concerns was also found with the need for assistance with estate planning and wills, government benefits, health insurance, and general legal advice common themes.

Summary Synthesis of Senior Legal Needs Survey

The survey results indicate a need for continued messaging, using a variety of media strategies, about the availability to and value of legal services. While many participants identified specific legal concerns, most had not used or were not aware of legal assistance provided by Idaho Legal Aid Services, Idaho Adult Protective Services, Ombudsman with local Area Agency on Aging, or other entities. This, coupled with the evidence that many of the concerns were not “acute” identifies the need for continued promotion of the value of prevention or being proactive. This messaging should not only be directed toward the older adult, but the “trusted” persons they interact with, i.e., health care providers, members of the faith community, and service providers, such as, hair dressers, Senior Center personnel, etc.

As in the 2008 survey, the expansion of clinics that assist with wills, estate planning, and living wills appears to be warranted. While the findings from the 2014 survey did not identify an overwhelming need for additional consumer law services, continued education through events such as the Senior Scam Jams and those provided online or by phone (Senior Legal Hotline) is warranted. The need to encourage older adults to report concerns is also evident with only 1 in 4 reporting a history of experiencing abuse attempting to get help.

Finally, as a recommendation for future legal needs assessment activities, it is imperative to not only include the perspective of the older adult, but couple this with a robust collection of information from individuals who see the results of inadequate legal support, i.e., Adult Protective Services, Idaho Legal Aid, and members of the judiciary. This mixed methods approach will help assure that the needs of the most vulnerable are included in the assessment as an individual often doesn’t know what they don’t know until it’s too late.

Discussion

Themes Identified and Recommendations

As summarized above, priority needs identified through this process include:

- Greater and more consistent resources for the establishment of guardianships
- Need for resources related to Medicaid and government benefits
- Maintaining and increasing timely access to the appropriate level of services

Based on a simplified ecological model,²⁴ we present recommendations targeted at addressing these priority needs by influencing behaviors at (1) the individuals, caregivers, and family-members level (2) agency, organizational, and community stakeholder level and (3) the policy, law or macro level. As an overview, Figure 2, illustrates the model and identifies general recommendations targeted at each level.

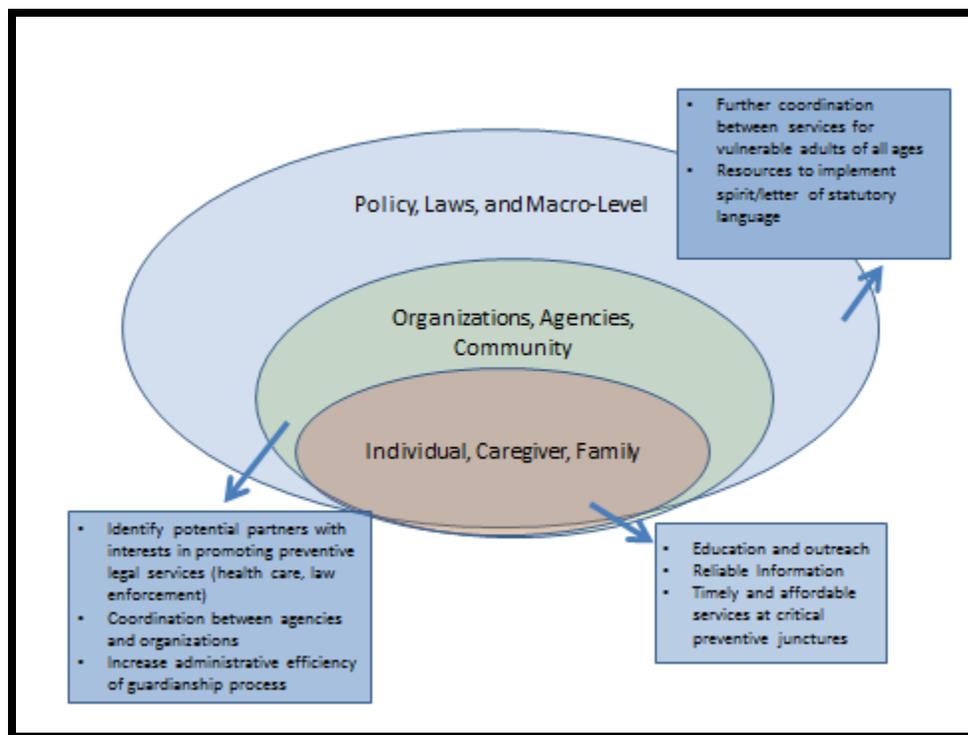


Figure 2. Ecological Model of Recommendations

²⁴ Ecological-based recommendations are often presented based on several additional levels or spheres of influence. For these recommendations, the individual and family-member spheres and the organizational and community-level spheres are collapsed.

Recommendations Targeted at Individual, Caregiver, and Family Level

Efforts targeted at individuals, caregivers, and family members should include (1) coordination of expanding efforts to provide individuals with current and reliable information and (2) offering access to legal advice at critical junctures where appropriate action may reduce needs later on.

Education, Outreach, and Information Efforts

Various aspects of our findings support the importance of ongoing efforts to educate seniors about legal issues and to provide seniors with reliable information.

Online Coordination and Clearinghouse of Existing Informational Resources

A variety of state-level organizations currently provide reliable consumer-oriented information. However, key informants mentioned concerns that individuals also may rely upon bad informational resources. Accordingly there may be an opportunity to better coordinate and promote *reliable* informational resources related to senior legal needs through a single, more comprehensive online clearinghouse.

In terms of providing a comprehensive general overview of priority legal needs, the “Idaho Senior Legal Guidebook” developed by Idaho Legal Aid is an invaluable resource.²⁵ ILAS also provides interactive forms and more in-depth legal information on some topics on its website. Additional informational resources related to *some* (but not all) commonly occurring legal needs for seniors in Idaho are also provided by several other state-level organizations including, the Court Assistance Office, the Department of Health & Welfare, the ISB – Taxation, Probate, and Trust Law Section, the Idaho Attorney General’s Office, and the Idaho Secretary of State’s Office. For example, the ISB – Taxation, Probate, and Trust Law Section has developed several current brochures on issues including estate planning basics, living trusts, and guardianships and conservatorships that are available through the CAO website.²⁶ These resources may be particularly helpful for consumers seeking more detailed information than the overview provided in ILAS’s “Guidebook.” Similarly, the Idaho Attorney General’s Office has developed informational resources for seniors focusing primarily on a range of consumer protection issues, while also providing information on other issues including advance directives/living wills and estate planning.²⁷ Given that the top two consumer problems encountered by seniors were telemarketers (53.5%) and consumer fraud (18.8%), the informational resources and services provided by the Attorney General’s Consumer Protection Division may particularly relevant and useful.

Considering the range of resources provided through different organizations and websites, there may be a greater opportunity for coordination in developing, updating, and distributing these informational resources. Such an effort could include developing a single, more comprehensive hub for reliable legal information resources for Idaho seniors (particularly low-income seniors). ILAS may be a natural fit for this function, in that it is the ICOA’s established partner in providing legal information and ILA’s “Idaho Senior Legal Guidebook” covers a broad range of issues and already provides links and references to a variety of resources. Accordingly, ILA’s efforts to update the “Idaho Senior Legal

²⁵ Idaho Legal Aid (2011), Idaho Senior Legal Guidebook.

<http://www.idaholegalaid.org/IdahoSeniorLegalGuidebook>.

²⁶ Idaho Court Assistance Program, Publications. <http://www.courtselfhelp.idaho.gov/publications>.

²⁷ Idaho Attorney General’s Office, Resources for Senior Citizens.

http://www.ag.idaho.gov/seniorCitizens/seniorCitizens_index.html.

Guidebook” could include identifying reliable resources for additional information with the aim that the “Guidebook” serving the additional function of an online resource-guide or clearinghouse.

Considering that 74% of Idaho seniors now report accessing the Internet on a daily basis (compared with 38% in 2008), assuring that Idaho seniors have easy access to reliable information online should be a priority. However, because the proportion of seniors earning less than \$20,000 who access the Internet daily remains lower (32%); such information should remain available via other means as well. In this regard, a single, more comprehensive online clearinghouse of reliable legal information may also provide a resource to service providers in a variety of sectors to use. Several stakeholders mentioned that they commonly print-out and provide individuals with paper copies of resources. And a single clearinghouse may make this process easier, particularly for health care and other providers who encounter individuals with legal issues but are not directly involved in providing legal aid. For example, a clinician encountering a situation where a guardianship may be necessary would be a good point of contact to provide a patient and family members with informational resources—but such a clinician may have difficulty locating appropriate resources to share.

Developing and Promoting Medicaid/Government Benefits Informational Resources

In addition to promoting existing informational resources, it appears there may be the greatest need for additional development or promotion of informational resources related to Medicaid and similar government benefits for low-income older adults. Specifically, private practice attorneys indicated this is where they would most benefit from additional training or educational resources. Moreover, several informants mentioned the need for well-informed planning in relation to these issues and approximately 20% of ILAS cases for seniors age 60+ involve Medicaid—more than any other category. Finally, three of the top four legal concerns identified Idaho seniors (government benefits, paying for long-term care, and estate planning) relate to legal issues planning for Medicaid LTC creates for seniors.

Compared to resources available for other priority legal needs for seniors, there appear to be relatively few informational resources provided by state and public interest agencies related to senior Medicaid issues and Medicaid planning strategies. Although ILA’s “Idaho Senior Legal Guidebook” provides a helpful general overview, the Court Assistance Office website does not have more detailed additional brochures like it does for guardianships/conservatorships and general estate planning. Accordingly, additional efforts may need to be allocated to both developing and promoting informational resources related to legal issues that arise for seniors in planning and qualifying for Medicaid and other government benefits.

Developing and Promoting Materials for Individuals and Families to Plan for Less-Restrictive Alternatives to Guardianship

As noted above, there are cases where the cost and restrictive nature of guardianship may be avoided through planning and the creation of appropriate powers of attorney and other care planning. For example, the ABA’s guidebook for judges in guardianship cases suggests that a court consider the following in determining whether there are less restrictive alternatives to guardianship:

Perhaps the individual has executed durable health care and financial powers of attorney, and there is no allegation of abuse of those powers. Perhaps the only issue is authority for medical treatment and the state has a default surrogate law allowing family members to

make health care decisions. Perhaps a more supervised housing setting or intensive in-home services would abrogate the need for a guardian.²⁸

Planning that occurs ahead of time--while an individual clearly has full decision-making capacity—may be effective in making less restrictive alternatives viable options to guardianship in more instances. Accordingly, efforts to promote alternatives to guardianship should include educational efforts targeted at the stage where effective future planning can occur. In addition to the existing informational resources related to guardianship/conservatorship, we recommend developing educational materials to facilitate sound future planning to help avoid the need for guardianship where possible.

Accessing Legal Information at Critical Junctures

On the one hand, 70% of private practice attorneys rated the current capacity to serve the needs of older adults as “fair” or “poor,” and key informants involved in providing aging and legal services express the need for greater resources. On the other hand, apart from problems with telemarketers, less than 20% of seniors reported having issues with particular legal problems. This apparent discrepancy may be due to the fact that legal problems arise relatively infrequently, but when they do they come at critical junctures and the potential consequences are dire. The infrequent, but high-stakes nature of legal problems for seniors underscores the need for services that are easily accessible in a timely manner.

Sustainability of the Senior Legal Hotline

From the perspective of AAA personnel, the Senior Legal Hotline is a valuable resource to which they can refer individuals. And in terms of providing timely, specific legal advice that is accessible in any region of the state, the Hotline is invaluable. The role that the Hotline plays is reflected in the fact that 54.5% of all ILAS cases for individuals 60+ involved only the Hotline, with an additional proportion of cases beginning with the Hotline and then being transferred to another ILAS funding source. Considering the important role that the Hotline plays, assuring it becomes a sustainable and permanent resource should be a priority.

Because of lack of funding, between 2010 to early 2014, the Senior Legal Hotline had limited hours and was restricted to individuals age 60+ below 125% of the poverty level. This past variation and limit in its availability as a resource may impact the extent to which it is viewed as a viable resource. For example, nearly 60% of the private practice attorneys surveyed reported they rarely or never referred individuals to the hotline for assistance, possibly because of lack of awareness regarding its availability.

We recommend expanding coordination between the Senior Legal Hotline and 2-1-1 Careline as a potential strategy to support and assure the sustainability of the Hotline. The 2-1-1 Idaho Careline is a free web and phone-based statewide Information and Referral service. It is funded by the state of Idaho, managed by H & W, linked to the Idaho Aging and Disability Resource Center (ADRC), and currently includes information and links to all ILAS offices. Careline agents, equipped to assist both English and Spanish speakers, use a “key word” triage strategy to connect people with applicable resources. In FY

²⁸ American Bar Association (2006), Judicial determination of capacity of older adults in guardianship proceeding. http://www.americanbar.org/content/dam/aba/administrative/law_aging/2011/2011_aging_bk_judges_capacity.authcheckdam.pdf, p. 6

2014, the Careline received 140,056 calls/contacts.²⁹ Of these calls, 4,418 were related to legal issues and 11,478 were about Medicaid for individuals over the age of 19. We recommend that additional marketing of this resource as a “front-door” to legal assistance be conducted with a focus on older adults, caregivers, and families, as well as, health care and legal professionals.

Increasing Timely Access to Other Resources

In addition to the Hotline, efforts should be placed in further developing and promoting other resources that can be timely accessed at critical junctures where legal issues arise. As noted above, the proportion of seniors accessing the Internet on a daily basis has grown precipitously since 2008, from 38% to 74% (although some of this change may be due to differences in sampling method). Additionally, the potential role of physical Senior Centers as a legal information resource has apparently declined, with only 8% recommending this (compared with 38% in 2008). Accordingly, priority should be placed on further promotion of legal information through resources available online, as discussed above and additional partnerships in the health care provider community, discussed below.

Recommendations Targeted at Agency, Organizational, and Community Stakeholder Level

Expanding the scope of community partners involved in providing legal services for low-income seniors may be particularly important in terms of addressing the gap in resources related to establishing guardianships. Additionally, coordination with a broader range of stakeholders may be effective in promoting informational resources related to Medicaid/government benefits and assuring individuals are able to timely access legal resources. In particular, we recommend: (1) establishing partnerships with health care providers including health systems/hospitals; (2) continuing and expanding efforts to coordinate civil legal services for older adults with other facets of the legal system and law enforcement; and (3) streamlining and/or establishing more administratively efficient processes to address priority legal needs.

Potential Role of Hospitals and Health Systems

More so perhaps than several years ago, now may be an opportune time to create and expand partnerships with hospitals and health care delivery systems in relation to addressing health-related legal issues for low-income older adults. Many hospitals are generally refocusing efforts to better address preventive and population-level health issues. Specifically, changes in Medicare reimbursement rules encouraging hospitals to reduce readmission rates.³⁰ And there are efforts to encourage “accountable care organizations” under the Medicare Shared Savings Program, which provides bonuses to networks of providers that reduce overall Medicare spending while still achieving specific population-level outcomes and quality standards.³¹ Finally, nonprofit hospitals are directed to specifically consider the needs of underserved and vulnerable populations in conducting community health needs assessments every three years.³² Below we discuss how addressing each of the priority legal needs we have identified aligns with

²⁹ 2-1-1 Idaho CareLine State Fiscal Year-2014 Summary by Contact Classification As of June 30, 2014 [State Fiscal Year 2014 (SFY Q4)=July 1 to June 30]. <http://www.211.idaho.gov/>.

³⁰ Center for Medicare & Medicaid Services, Readmission Reduction Program. <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/Readmissions-Reduction-Program.html>

³¹ Berenson, R.A. & Burton, R.A. (2012). Health Affairs Health Policy Brief: Next Steps for ACOs..

³² CDC, Resources for Implementing the Community Health Needs Assessment Process. <http://www.cdc.gov/policy/chna/>.

this shift in focus for health care providers. We then outline potential strategies to establish and expand partnerships with the health care provider community.

Health Care Provider Involvement in Addressing Priority Legal Needs

Hospital/Health System Involvement in Establishing Guardianships

The need for guardianships is typically closely related to the health care needs of the proposed ward. Several interviewees noted that guardianships are often necessary to enroll a person in government programs and to begin receiving necessary care. Additionally, hospitals are able to better coordinate care and often work closely with county BOCGs in referring individuals. Interviewees also noted that establishing a necessary guardianship can facilitate the most medically appropriate and cost-effective discharge planning and care. With trends shifting towards value-based, accountable reimbursement methods, hospitals increasingly have financial incentives to facilitate cost-effective discharge care and avoid unnecessary readmissions.

To the extent that the lack of resources to timely establish a guardianship hinders cost-effective discharge planning, hospitals have a direct financial interest in supporting resources to address this gap. Additionally, considering the close relationship between guardianships and coordinating health care, guardianship services should closely align with the “community benefit” mission of nonprofit hospitals. ILAS is currently exploring a partnership with one community hospital to address the situation where a hospital inpatient needs a guardianship to facilitate appropriate cost-effective discharge planning and the hospital is incurring high costs as a result of being unable to coordinate and discharge the patient to appropriate lower-level care without a guardianship. Considering that federal AoA Title III-B funds cannot be used to fund the petitioning of guardianships, health care providers could play a potentially important role in this regard.

Health Care Provider Involvement in Providing Medicaid/Government Benefits Information

As noted above, many low-income seniors still have limited or no access to the Internet and Senior Centers are less utilized as an informational resource than they were in the past. Accordingly, health care providers that interact with low-income older adults should be viewed as an additional means through which to provide legal information to older adults. Health care providers are powerful influencers of behavior for older adults and often interact with patients long before they may LTC and can thus provide legal information to facilitate better future planning. Efforts should be placed in developing Medicaid planning resources which providers can provide to patients at this planning stage.

Timely Access to the Appropriate Level of Services

As illustrated by the medical-legal partnership model of coordination between legal aid and health care organizations, health care providers may be a first point of contact where an individual is in a crisis situation involving a legal problem.³³ Accordingly, a health care provider has the potential to play a vital role in linking a patient to services that may reduce later health and legal costs. One study found that over a three-and-a-half year period a medical-legal partnership consisting of a full-time social worker and 0.5 FTE legal aid attorney resulted in the sponsoring health institution obtaining a financial benefit of \$923,188 in terms of hospital reimbursement recovered and patient economic hardship avoided.³⁴

Strategies to Establish or Expand Collaborations with Health Care Providers

Increasing Scope of Collaboration through the Idaho Quality of Life Coalition

The collaborations between legal, legislative, and health care provider stakeholders through the Idaho Quality of Life Coalition (IQLC) (formerly the Idaho End-of-Life Coalition) were vital to legislation simplifying the process for creating advance directives/living wills and creating a statewide health directives registry in 2006. IQLC remains a forum for exchange between these stakeholders and is currently involved in legislative efforts to make it easier for health care providers to recognize and abide by out-of-state advance directives. Accordingly, IQLC may be a good forum in which to explore greater involvement of health care providers in supporting resources to establish guardianships. As an example of potential opportunities, health care organizations in the Treasure Valley, IQLC, and a diverse group of community stakeholders are working together to initiate a community-based Respecting Choices® Advanced Care Planning (ACP) project. A planning meeting designed to bring organizational and community leaders and decision makers together to discuss ACP in Idaho has been scheduled for October 9, 2014.³⁵

Involvement of Health Care Provider Community in Later Phases of ACL Grant

Given the potential role health care systems could play in helping address priority legal needs, the ICOA should consider including representatives from the health care provider community on the Advisory Committee for later phases of this Model Approaches to Statewide Legal Delivery Systems Grant. Stakeholders to considering inviting to participate include representatives from the Idaho Hospital Association and/or community benefit personnel from nonprofit hospitals and health systems.

³³ See generally, National Center for Medical-Legal Partnership. <http://medical-legalpartnership.org/>.

³⁴ Roadabaugh, K.J., Hammond, M., Myszka, D., & Sandel, M. (2010). A medical-legal partnership as a component of a palliative care model. *Journal of Palliative Medicine* 13, 1, 15-18. DOI: 10.1089/jpm.2009.0203

³⁵ S. Toevs, personal communication, August 14, 2014.

Medical-Legal Partnerships

Medical-legal partnerships involve health care organizations offering support for on-site or coordinated social worker and legal aid attorney assistance to patients. The aim is to provide medical providers a referral resource for low-income patients facing legal issues that impact their health.³⁶ Many medical-legal partnerships serve patients from a broad range of age-groups. Considering the relationship between health and legal issues older adults face such as accessible housing, guardianships, and obtaining government benefits, focusing on older adults may be a viable strategy to introduce medical-legal partnerships in Idaho. Additionally, because of trends towards “value-based” reimbursement, health care providers may increasingly have an incentive to support resources that will increase population health outcomes and cost-effectiveness.

Proactive Involvement in Nonprofit Hospital Community Benefit Needs Assessment Process

Under the Affordable Care Act, every three years nonprofit hospitals are now required to conduct a “community benefit needs assessment” (CHNA)³⁷ that “takes into account input from persons who represent the broad interests of the community served by the hospital facility, including those with special knowledge of or expertise in public health” and then “adopt [] an implementation strategy to meet the community health needs identified by such assessment.”³⁸ After the CHNA is conducted, it is made publicly available and members of the community are able to provide comments and suggestions on the CHNA and implementation plan. Under the IRS’s April 2013 Proposed Final CHNA Rules, hospitals are to take into account public and community stakeholder feedback in conducting its next CHNA.³⁹ Considering the overlap between health and certain legal issues for older adults, ILAS and other organizations should proactively engage nonprofit hospitals and health systems to assure health-related legal needs of low-income individuals are substantively included in CHNAs and the potential for medical-legal partnerships are meaningfully considered in implementation planning.

Collaborations within Legal Services Community

In addition to partnering with health care provider organizations, there may be additional opportunities for collaboration with other facets of the legal services community and university programs. For example, the Family Justice Centers in Nampa and Boise both had a three year grant to enhance law enforcement, judiciary and legal systems in relation to elder abuse and exploitation. Similarly, AP personnel noted the importance of close coordination with law enforcement and a shift in AP focus towards more coordinating “harm reduction” activities. In this sense, increasing access to civil legal services may play an important role in reducing the need for criminal intervention later on (e.g., facilitating a necessary guardianship with a responsible and capable family member serving as guardian may prevent potential self-neglect or exploitation/abuse by others).

The relatively low numbers of private practice attorneys referring clients to the Senior Legal Hotline and other resources identified as part of the legal services delivery system by the ACL also indicates there may be greater opportunity for collaboration with this group. Finally, as mentioned above in discussing

³⁶ See generally, National Center for Medical-Legal Partnership. <http://medical-legalpartnership.org/>.

³⁷ CDC, Resources for Implementing the Community Health Needs Assessment Process. <http://www.cdc.gov/policy/chna/>.

³⁸ 26 U.S.C. § 501(r)(3)(A)&(B).

³⁹ 78 F.R. 20523, 20530-31 (Apr. 5, 2013).

an online clearinghouse for senior legal information, there are opportunities for greater coordination between different state-level agencies and organizations.

Increasing Efficiency of Judicial and Administrative Processes Impacting Older Adults

Both within and between agencies and organizations, efforts should be placed to identify ways to make some processes involved in addressing legal issues more administratively or judicially efficient.

Efficient and Individualized Guardianship Services Accessible to All

In relation to guardianship services, we recommend the resources and materials developed by the ABA Commission on Law and Aging and the National Guardianship Network (NGN) for states to create Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS).⁴⁰ We recommend Idaho capitalize on the availability of such resources to assure access to guardianship services and prevent potential abuse of guardianships. This may include formally creating an Idaho WINGS. In particular, efforts should be primarily placed on achieving Recommendation #3.3 from the Third National Guardianship Summit in 2011:

Recommendation #3.3

To ensure the right of access to guardianship services, states should provide public funding for:

- Guardianship services for those unable to pay
- Services to coordinate alternatives to guardianship, and the obligation to make such services available to all vulnerable persons.⁴¹

Considering the identified need for more resources related to guardianship services, efforts should also be made to assure these services are provided as efficiently as possible. Advisory Committee members mentioned a pilot program to have court visitors employed directly by the court, thereby streamlining the process and work involved in establishing guardianships. Advisory Committee members also mentioned variations around the state in how the guardian ad litem (GAL) is identified and appointed. Specifically, in some areas the court will appoint a GAL based on a list of available attorneys (with attorneys required to accept some GAL appointments pro bono). In some rural areas, however, the petitioner for a guardianship must identify the attorney who will be appointed as a GAL in the petition. This variation may increase the work-load for attorneys involved and make it more difficult to provide clear and accurate training materials for attorneys in shortage areas. Another Advisory Committee member discussed efforts to create a model template of provisions for courts and attorneys to consider in creating limited guardianships.

Additionally, partnerships between adjoining rural counties to establish a multi-county board of the community guardian (BOCG) may serve a valuable function where single-county boards have been administratively unworkable. This may be a particularly valuable tool for small counties where there are

⁴⁰ ABA & NGN (2014), WINGS tips: State replication guide for Working Interdisciplinary Networks for Guardianship Stakeholders.
http://www.americanbar.org/content/dam/aba/administrative/law_aging/2014_wings_implementation_guide.authckdam.pdf

⁴¹ Third National Guardianship Summit Standards and Recommendations (2011).
<http://epubs.utah.edu/index.php/ulr/article/view/833/642>.

only a handful of potential wards. This model also provides a potential administrative efficiency in that the prosecuting attorney's office from one county can represent the BOGC as the guardian and attorneys from the other office can represent the proposed ward.

It is important to note, however, that informants did *not* recommend changing or lowering the statutory standards required for establishing guardianships. Rather, efforts should be made to make the process more efficient while maintaining these standards. Moreover, informants also mentioned the potential role of limited guardianship. In a limited guardianship, the protected individual may retain rights regarding factors such as their recreational activities, extent of involvement in religious activities, spending small amounts of money, etc.⁴² Regarding limited and full guardianship, the ABA explains: "In some cases, such as coma or advanced dementia, individuals are totally impaired by their medical condition. In other cases, a fine tuned assessment may help to identify specific areas—**even if relatively small in scope**—in which the individual may retain rights."⁴³ Assuring that the guardianship process in each case is "fine-tuned" and individualized will likely increase the complexity of the process making it more burdensome and time-consuming for attorneys petitioning for guardianships; efforts to increase efficiency should be focused in this area.

Increasing Efficiency for Other Legal Services

Because Medicaid is a partnership between the state and federal government, some of the processes involved in qualifying for Medicaid LTC are dictated by federal regulations (and would need to be addressed at the macro-level). However, several informants mentioned confusion and misinformation regarding eligibility requirements and the estate recovery process. Additionally, the Senior Hotline appears to play an important role in efficiently providing legal advice and linking individuals who qualify with additional services.

Policy- or Macro-Level Recommendations

Increasing Coordination between Services for Vulnerable Adults of All Ages

In recent years there has been an effort to coordinate services for vulnerable and older adults at the federal level. Notably, in 2012 the Administration for Community Living (ACL) was created and the federal Administration on Aging, the Administration on Intellectual and Developmental Disabilities, and the Office on Disability were brought under its auspices.

Accordingly, in terms of federal funding support, there may be an advantage to adopting a similar structure at the state-level. In many ways, Idaho is already doing this—with AP services focusing on vulnerable adults of all ages and with the Aging & Disability Resource Center housed within the ICOA. Moving forward, however, there may be greater opportunities for coordination. This could include

⁴² American Bar Association (2006), Judicial determination of capacity of older adults in guardianship proceeding. http://www.americanbar.org/content/dam/aba/administrative/law_aging/2011/2011_aging_bk_judges_capacity.authcheckdam.pdf, p. 2.

⁴³ American Bar Association (2006), Judicial determination of capacity of older adults in guardianship proceeding. http://www.americanbar.org/content/dam/aba/administrative/law_aging/2011/2011_aging_bk_judges_capacity.authcheckdam.pdf, p. 2.

greater coordination between the ICOA and Disability Rights Idaho. This could also include expanding the role of the Senior Legal Hotline to serve assistance-needing individuals of other ages and their caregivers as well. Instability in federal funding for the Hotline in the past 10 years suggests the benefit of supplementing this funding with state funding. In particular, there may an opportunity to further coordinate the Legal Hotline with the state-funded 2-1-1 Careline program.

Establish Resources and Practices to Fully Implement Statutory Protections for Vulnerable Adults

Several informants positively mentioned the statutory language for guardianships as a model in terms of facilitating maximum independence by the ward and preventing potential abuses of guardianships. However, informants were also quick to note that some of the processes contemplated in the statute were not being used in practice. For example, the statute provides for limited guardianships and states that “it is desirable to make available the least restrictive form of guardianship to assist persons who are only partially incapable of caring for their own needs.”⁴⁴ Yet Advisory Committee members noted that limited guardianships are rarely implemented in practice. Accordingly, greater efforts should be made to assure that actual practice reflects the spirit and letter of Idaho’s guardianship statute.

⁴⁴ Idaho Code §15-5-303.

Appendices

Appendix A. Legal Aid Problem Code Redefined

Legal Aid Problem Code	Legal Issue	N	Top 10 %
01 Bankruptcy/Debtor Relief	Debtor/Creditor	229	
02 Collect/Repo/Def/Garnish	Debtor/Creditor	1,937	10.0
03 Contract/Warranties	Debtor/Creditor	635	3.3
04 Collection Practices/Credit Harassment	Debtor/Creditor	19	
05 Predatory Lending Practices (Not Mortgages)	Debtor/Creditor	5	
06 Loans/Installment Purchases (Not Collections)	Debtor/Creditor	65	
07 Public Utilities	Other	48	
08 Unfair and Deceptive Sales Practices (not Real Property)	Other	28	
09 Other Consumer/Finance	Other	354	
12 Discipline (Including Expulsion and Suspension)	Other	1	
13 Special Education/Learning Disabilities	Other	1	
16 Student Financial Aid	Other	1	
19 Other Education	Other	2	
21 Employment Discrimination	Other	18	
22 Wage Claims and Other FLSA Issues	Other	11	
24 Taxes (Not EITC)	Other	8	
25 Employee Rights	Other	10	
26 Agricultural Workers Issues (Not Wage Claim/FLSA Issues)	Other	1	
29 Other Employment	Other	44	
30 Adoption	Family Law	30	
31 Custody/Visitation	Family Law	62	
32 Divorce/Sep./Annul.	Abuse/Violence	508	2.6
33 Adult Guardianship/Conservatorship	Guardianship/Conservators hip	1,424	7.3
34 Name Change	Other	22	
35 Parental Rights Termination	Family Law	1	
36 Paternity	Family Law	1	
37 Domestic Violence	Abuse/Violence	42	
38 Support	Family Law	44	
39 Other Family	Family Law	196	
42 Neglected/Abused/Dependent	Family Law	5	
44 Minor Guardianship/Conservatorship	Family Law	182	
49 Other Juvenile	Other	4	
51 Medicaid	Medicaid/Medicare	3,838	19.8
52 Medicare	Medicaid/Medicare	142	
54 Home and Community Based Care	Other	3	

Legal Aid Problem Code	Legal Issue	N	Top 10 %
55 Private Health Insurance	Other	19	
56 Long Term Health Care Facilities	Other	14	
57 State and Local Health	Other	3	
59 Other Health	Other	139	
61 Federally Subsidized Insurance	Housing	208	
62 Homeownership/Real Property (Not Foreclosure)	Housing	780	4.0
63 Private Landlord/Tenant	Housing	1,390	7.2
64 Public Housing	Housing	177	
65 Mobile Homes	Housing	151	
66 Housing Discrimination	Housing	26	
67 Mortgage Foreclosures (Not Predatory Lending/Practices)	Housing	221	
68 Mortgage Predatory Lending/Practices	Housing	15	
69 Other Housing	Housing	498	
71 TANF	Public Entitlement	498	
72 Social Security (Not SSDI)	Public Entitlement	74	
73 Food Stamps	Public Entitlement	42	
74 SSDI	Public Entitlement	274	
75 SSI	Public Entitlement	213	
76 Unemployment Compensation	Other	18	
77 Veterans Benefits	Other	34	
78 State and Local Income Maintenance	Other	28	
79 Other Income Maintenance	Other	73	
81 Immigration/Naturalization	Other	16	
82 Mental Health	Other	8	
84 Disability Rights	Other	14	
85 Civil Rights	Other	3	
89 Other Individual Rights	Other	16	
90 Elder Abuse	Abuse/Violence	2	
91 Legal Assist. to Non-Profit Org. or Group (incl. Incorp./Diss.)	Other	2	
92 Indian/Tribal Law	Other	26	
93 Licenses (Drivers, Occupational, and Others)	Other	13	
94 Torts	Other	283	
95 Wills and Estates	Wills/Estates	2,861	14.7
96 Advanced Directives/Powers of Attorney	Advanced Directives/POAs	664	3.4
98 Criminal	Other	25	

Legal Aid Problem Code	Legal Issue	N	Top 10 %
99 Other Miscellaneous	Other	1,144	5.9

Appendix B. Demographic Characteristics of Idaho Legal Aid Clients (by year)

Client Demographics	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14
	%									
Cases Opened (N)	2,884	2,043	2,213	2,557	2,427	2,156	1,306	1,145	1,100	1,571
Age										
60-70	44.9	43.6	43.5	45.2	47.1	48.1	46.6	49.0	47.3	49.8
71-80	31.1	32.7	30.3	30.1	29.3	28.6	28.3	26.1	27.8	29.7
81-90	20.8	19.7	21.5	21.2	19.8	19.5	21.0	19.7	20.4	16.9
91+	3.3	4.1	4.7	3.5	3.7	3.8	4.1	5.2	4.5	3.6
Race										
White	91.9	91.0	89.2	90.3	91.7	89.1	90.2	90.6	89.9	92.7
Non-White	8.1	9.0	10.8	9.7	8.3	10.9	9.8	9.4	10.1	7.3
Disability Status										
Disabled	0.6	1.4	2.3	2.3	1.3	1.4	21.8	41.6	45.7	40.7
Not Disabled	99.4	98.6	97.7	97.7	98.7	98.6	78.2	58.4	54.3	59.3
AAA Districts Served										
Area I	8.3	15.3	14.5	11.6	12.2	10.7	19.8	39.9	48.0	18.8
Area II	2.8	4.5	7.5	3.9	4.0	3.0	7.1	4.5	8.5	4.5
Area III	77.9	62.8	62.9	71.1	71.9	75.1	56.5	37.7	23.6	46.6
Area IV	3.2	3.7	4.2	3.8	3.2	3.6	4.1	5.0	6.5	3.3
Area V	5.3	9.2	7.9	6.8	5.0	4.4	8.1	8.7	8.5	3.6
Area VI	2.6	4.6	3.0	2.7	3.7	3.3	4.3	4.2	4.8	23.2
Legal Issues										
Medicaid/Medicare	18.9	21.7	21.7	19.7	17.8	17.5	23.2	24.1	28.0	19.7
Housing	14.1	12.7	17.9	15.9	18.4	17.4	16.9	24.5	28.1	22.9
Debtor/Creditor	17.0	13.6	13.5	14.9	16.4	17.8	14.2	15.1	10.7	11.8
Wills/Estates	19.7	20.3	18.3	17.5	11.9	12.4	10.3	7.2	6.1	11.7
Guardian/Conservator	7.9	8.4	7.7	7.4	7.5	7.0	9.1	6.1	5.5	5.3
Adv. Directives/POAs	-	0.0 (n=1)	-	3.6	5.8	5.7	5.7	6.5	7.2	5.2
Public Entitlement	3.6	4.1	2.8	2.6	3.3	2.9	3.2	3.3	2.1	2.9
Abuse/Violence	2.2	3.0	2.8	2.3	2.7	3.0	3.2	3.0	3.5	3.9
Family Law	2.6	2.1	1.8	2.2	3.3	3.2	1.7	3.3	3.0	4.1
Other	13.9	14.0	13.4	13.9	12.9	13.1	12.3	6.9	5.7	12.3

Level of Action taken										
Counsel and Advice	80.2	68.3	64.8	64.7	66.3	63.2	52.8	60.6	55.6	75.5
Limited Action	13.2	19.7	25.5	26.6	23.6	28.0	33.6	24.9	32.7	20.7
Extended Service	6.7	12.0	9.6	8.6	10.1	8.9	13.5	14.5	11.7	3.8
Funding Source										
AAA	24.4	39.1	36.6	30.7	29.5	26.9	47.3	51.0	60.3	49.8
LSC	2.9	2.6	5.8	2.8	2.4	3.5	7.0	5.6	4.1	29.7
Senior Hotline	71.0	53.7	53.0	62.3	64.9	66.6	34.4	22.5	9.4	16.9
Other	1.7	4.6	4.6	4.2	3.2	3.1	11.3	20.9	26.3	3.6
Client Over Income										
Yes	55.7	43.0	45.1	50.2	54.4	51.1	18.8	25.4	32.4	45.9
No	44.3	57.0	54.9	49.8	45.6	48.9	81.2	74.6	67.6	54.1

Appendix C. Cross-Section of Lawyers Contacted/Represented on Main Legal Issues by AAA

Lawyers Contacted/Represented on Main Legal Issues by AAA	Rarely/Never		Infrequently		Frequently	
	N	%	N	%	N	%
Estate Planning						
Contacted						
AAA III	1	7.1	1	7.1	12	85.7
Not AAA III	0	0.0	1	10.0	9	90.0
Represented						
AAA III	2	14.3	0	0.0	12	85.7
Not AAA III	0	0.0	2	20.0	8	80.0
Advanced Directive						
Contacted						
AAA III	1	7.1	1	7.1	12	85.7
Not AAA III	0	0.0	0	0.0	10	100.0
Represented						
AAA III	1	7.1	1	7.1	12	85.7
Not AAA III	0	0.0	1	10.0	9	90.0
Family Law						
Contacted						
AAA III	4	28.6	4	28.6	6	42.9
Not AAA III	3	33.3	4	44.4	2	22.2
Represented						
AAA III	7	50.0	1	7.1	6	42.9
Not AAA III	6	50.0	3	30.0	2	20.0
Housing						
Contacted						
AAA III	7	50.0	7	50.0	0	0.0
Not AAA III	7	77.8	2	22.2	0	0.0
Represented						
AAA III	9	64.3	5	35.7	0	0.0
Not AAA III	7	70.0	3	30.0	0	0.0
Long Term Care						
Contacted						
AAA III	4	30.8	5	38.5	4	30.8
Not AAA III	1	11.1	3	33.3	5	55.6
Represented						
AAA III	5	35.7	5	35.7	4	28.6
Not AAA III	1	10.0	4	40.0	5	50.0
Consumer						
Contacted						

Lawyers Contacted/Represented on Main Legal Issues by AAA	Rarely/Never		Infrequently		Frequently	
	N	%	N	%	N	%
AAA III	8	57.1	6	42.9	0	0.0
Not AAA III	7	77.8	2	22.2	0	0.0
Represented						
AAA III	8	57.1	6	42.9	0	0.0
Not AAA III	8	80.0	2	20.0	0	0.0
Abuse						
Contacted						
AAA III	10	76.9	2	15.4	1	9.1
Not AAA III	6	66.7	3	33.3	0	0.0
Represented						
AAA III	11	78.6	2	14.3	1	7.1
Not AAA III	6	60.0	4	40.0	0	0.0
Guardianship						
Contacted						
AAA III	3	21.4	4	28.6	7	50.0
Not AAA III	0	0.0	1	10.0	9	90.0
Represented						
AAA III	4	28.6	3	21.4	7	50.0
Not AAA III	1	10.0	1	10.0	8	80.0
Government Benefits						
Contacted						
AAA III	3	23.1	5	38.5	5	38.5
Not AAA III	2	20.0	3	30.0	5	50.0
Represented						
AAA III	5	35.7	5	35.7	4	28.6
Not AAA III	2	20.0	3	30.0	5	50.0
Conservatorship						
Contacted						
AAA III	4	28.6	3	21.4	7	50.0
Not AAA III	1	10.0	0	0.0	9	90.0
Represented						
AAA III	5	35.7	2	14.3	7	50.0
Not AAA III	2	20.0	0	0.0	8	80.0

N=24 (some variables might have missing cases)

Appendix D. Cross-Section of Types of Barriers in Providing Legal Services to Older adults by AAA

Types of Barriers in Providing Legal Services to Older adults by AAA	Not a Barrier		Somewhat a Barrier		A Significant Barrier	
	N	%	N	%	N	%
Insufficient Time						
AAA III	4	33.3	6	50.0	2	16.7
Not AAA III	1	10.0	8	80.0	1	10.0
Too Much Human Capital						
AAA III	4	33.3	3	25.0	5	41.7
Not AAA III	2	20.0	6	60.0	2	20.0
Client's Inability to Pay						
AAA III	1	8.3	5	41.7	6	50.0
Not AAA III	3	30.0	4	40.0	3	30.0
Lack of Experience						
AAA III	6	50.0	4	33.3	2	16.7
Not AAA III	3	30.0	7	70.0	0	0.0
Lack of Interest						
AAA III	9	75.0	3	25.0	0	0.0
Not AAA III	7	70.0	3	30.0	0	0.0
Difficulty in Locating/Screening Client						
AAA III	6	50.0	5	41.7	1	8.3
Not AAA III	5	50.0	4	40.0	1	10.0
Conflict of Interest						
AAA III	9	75.0	3	25.0	0	0.0
Not AAA III	8	80.0	2	20.0	0	0.0
Difficulty in Communicating with Client						
AAA III	10	83.3	2	16.7	0	0.0
Not AAA III	9	90.0	1	10.0	0	0.0
Difficulty Navigating Agencies						
AAA III	4	33.3	7	58.3	1	8.3
Not AAA III	7	70.0	1	10.0	2	20.0

N=24 (some variables might have missing cases)

Appendix E. Level of Benefit in Receiving Additional Information and/or Training in Legal Areas by Area Agency on Aging

Level of Benefits in Receiving Additional Information and/or Training in Legal Areas	Not Beneficial		Somewhat Beneficial		Highly Beneficial	
	N	%	N	%	N	%
Estate Planning						
AAA III	4	30.8	7	53.8	2	15.4
Not AAA III	3	30.0	6	60.0	1	10.0
Advanced Directive						
AAA III	4	30.8	7	53.8	2	15.4
Not AAA III	3	30.0	5	50.0	2	20.0
Family Law						
AAA III	4	33.3	6	50.0	0	0.0
Not AAA III	5	55.6	4	44.4	2	16.7
Housing						
AAA III	6	46.2	6	46.2	1	7.7
Not AAA III	7	70.0	3	30.0	0	0.0
Long Term Care						
AAA III	2	15.4	9	69.2	2	15.4
Not AAA III	1	10.0	2	20.0	7	70.0
Consumer						
AAA III	6	46.2	6	46.2	1	7.7
Not AAA III	3	30.0	5	50.0	2	20.0
Abuse						
AAA III	3	23.1	9	69.2	1	7.1
Not AAA III	3	30.0	6	60.0	1	10.0
Guardianship						
AAA III	3	23.1	8	61.5	2	15.4
Not AAA III	1	10.0	6	60.0	3	30.0
Government Benefits						
AAA III	2	15.4	7	53.8	4	30.8
Not AAA III	0	0.0	3	33.3	6	66.7
Conservatorship						
AAA III	3	23.1	8	61.5	2	15.4
Not AAA III	2	20.0	5	50.0	3	30.0